

RECORD OF THE SENATE

THURSDAY, OCTOBER 22, 1998

RESUMPTION OF THE SESSION

At 10:34 a.m., the session was resumed with the Senate President, Hon. Marcelo B. Fernan, presiding.

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

Senator Drilon. Mr. President, I move that the Secretary read the Third Additional Reference of Business.

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

The Secretary will read the Third Additional Reference of Business.

THIRD ADDITIONAL REFERENCE OF BUSINESS

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

The Secretary.

October 08, 1998

The Honorable Senate President and Members of the Senate Senate of the Philippines Pasay City

Gentlemen and Ladies of the Senate:

Pursuant to the provisions of Section 21, Article VII of the Constitution, I have the honor to submit, for the Senate's consideration and concurrence, a certified true copy of the Copenhagen Amendments to the Montreal Protocol on Substances that Deplete the Ozone Layer and its London Amendments, which were adopted in Copenhagen on 25 November 1992.

The Philippines ratified the Montreal Protocol and its London Amendments on 22 January 1993 and was concurred in by the Senate on 10 March 1993.

The Copenhagen Amendments aim to strengthen the control procedures under the Montreal Protocol on Substances that Deplete the Ozone Layer (1987) to extend the coverage of the Protocol to new substances.

The Montreal Protocol has been amended in order to set out obligations of the Parties to carry out control measures concerning several Ozone Depleting

Substances (ODSs), including hydrochloroflourocarbons, hydrobromoflourocarbons and methyl bromide.

The Philippines, through the Country Program for the phase-out of ODSs drawn in 1993, has been able to comply with its commitments to the Montreal Protocol on Ozone-Depleting Substances and its London Amendments. Findings show that the Philippine consumption trends for ODSs are well within the prescribed schedule of the Copenhagen Amendments and that the quota reduction and absolute phase-out schedules under the Amendments are achievable by the Philippines.

Countries that have not ratified the Copenhagen Amendments will be experiencing difficulty in the approval of proposed projects for multilateral funding (specially on methyl bromide). As a matter of fact, the Executive Committee of the Multilateral Fund, during its 24th meeting held in Montreal, Canada on 25-27 March 1998, decided to stall the approval of the prospective methyl bromide alternative demonstration project for the Philippines, among others.

The Copenhagen Amendments shall enter into force, with respect to the Philippines, on the ninetieth day following the date of deposit of its Instrument of Ratification to the Secretary-General of the United Nations.

In view of the foregoing, enclosed are Instruments of Ratification and the draft Senate Concurring Resolution to the ratification of said Amendments.

(Sgd.) JOSEPEJERCITO ESTRADA

The President. Referred to the Committee on Foreign Relations

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1279, entitled AN ACT CREATING THE COUNCIL OF STATE

Introduced by Senator Ople

The President. Referred to the Committees on Economic Affairs; and Civil Service and Government Reorganization

The Secretary. Senate Bill No. 1280, entitled

AN ACT AMENDING ARTICLE 39(a)(1) OF EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN AS THE "OMNIBUS INVESTMENT CODE OF 1987," AS AMENDED

The President. Referred to the Committee on Rules

The Secretary. Indorsements from Director Carlito C. Gaddi of the Office of the President of the Philippines, respectfully referring to the Senate the following:

Resolution No. 1817-98, current series, of the Provincial Board of Cebu, requesting the government to further study the propriety of granting tax amnesty to delinquent taxpayers.

The President. Referred to the Committee on Ways and Means

The Secretary. Resolution No. 98-34, current series, of the Sangguniang Bayan of Maddela, Quirino, supporting the re-nationalization of the health services in the local government units.

The President. Referred to the Committee on Health and Demography

The Secretary. Resolution No. 98-258, current series, of the Sangguniang Panlalawigan of Nueva Viscaya, signifying their strong support to Senate Bill No. 1000 authored by Sen. Loren Legarda-Leviste.

The President. Referred to the Committee on Environment and Natural Resources

The Secretary. Resolution No. 865, current series, of the Sangguniang Panlungsod of Iligan, regarding the proposal to authorize City Mayor Franklin M. Quijano to make representation in the Halls of Congress and the Courts to take necessary steps to bring Iligan City within the executive jurisdiction of Region IX as mandated under Executive Order No. 429.

The President. Referred to the Committee on Local Government

FOURTH ADDITIONAL REFERENCE OF BUSINESS

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 265, entitled

RESOLUTION DIRECTING THE COMMITTEE ON PUBLIC SERVICES, AND OTHER APPROPRIATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE METERING SCHEME OF THE PHILIPPINE LONG DISTANCE TELEPHONE COMPANY (PLDT) TO DETERMINE WHETHER THIS WOULD UNDULY BURDEN THE CONSUMERS WHILE PREVENTING MORE PEOPLE FROM ACCESS TO THE INTERNET

Introduced by Senator Ople

The President. Referred to the Committees on Public Services; and Trade and Commerce

The Secretary. Proposed Senate Resolution No. 266, entitled

RESOLUTION DIRECTING THE COMMITTEE ON AGRICULTURE AND FOOD TO EXPAND THE ONGOING HEARINGS TO ENCOMPASS THE PROBLEMS IN THE MARKETING OF SUGAR WHICH RESULTS IN HIGH PRICES, AND FOR OTHER PURPOSES

Introduced by Senator J. Osmeña

The President. Referred to the Committee on Agriculture and Food

The Majority Leader is recognized.

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

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

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 1255 is now in order.

Senator Drilon. Mr. President, we are now in the period of interpellations, and for that purpose, may I ask the Chair to recognize the principal sponsor, Sen. Gregorio B. Honasan, and Sen. Aquilino Q. Pimentel, and thereafter, Sen. Rene L. Cayetano for the interpellation.

The President. Senator Honasan, the sponsor, is recognized, and Senator Pimentel for interpellation.

Senator Pimentel. Mr. President, will the distinguished sponsor respond to a few questions?

Senator Honasan. Certainly, Mr. President.

Senator Pimentel. At the outset, Mr. President, I would like to state for the record that this representation is fully in accord with the thrust of this long delayed Act which will do something about air pollution in this country, because this is a need that our people cannot do without for a long time.

Therefore, Mr. President, allow me to congratulate the main sponsor, Senator Honasan, for finally bringing the problem of pollution into the halls of the Senate for its approval.

I would like to start, Mr. President, by asking the distinguished senator: What would be the role of the local government units in the matter of enforcing and probably even formulating the guidelines for the enforcement of this law once it becomes a law?

I know there are sections here that refer to local government units, but there is no substitute for our hearing it directly from the distinguished sponsor.

Senator Honasan. Thank you, Mr. President.

Mr. President, the mechanism for this will begin from the designation of what we call an air quality control zone. This is not governed by any political or geographic boundaries. This will be the focal point in the sense that the ambient air characteristics that will be defined in these control zones will specifically allow the local government units to coordinate and impose certain standards and rules related to pollution control and prevention. But at the outset, this will be the area of the newly formed Presidential Air Quality Commission.

Senator Pimentel. Can the gentleman kindly repeat, Mr. President, the particular zone that he mentioned?

Senator Honasan. Air quality control zone.

Senator Pimentel. My understanding, Mr. President, is that it is the Department of Environment and Natural Resources which will be the lead agency and perhaps rightly so.

Nonetheless, having said that, let me also point out, Mr. President, that the Department of Environment and Natural Resources cannot be expected, I think, to implement the thrust of this law for the simple reason that it will not have the necessary personnel to do it all over the nation. And also for the reason that in the matter, for example, of the establishment of factories, firms or companies that use engines and machines that would have the tendency to pollute the atmosphere, the only agency in the entire gamut of the governmental structure that would have the capacity to oversee the operations of those kinds of firms would be the local governments where they are established.

The reason I am saying this, Mr. President, is, at the very first instance that they are going into a municipality or a city, for example, they have to go to the Office of the Mayor and also to the Office of the Barangay Captain, specifically in relation to the barangay where the physical plant is to be established. So right from the very start, the local government units concerned would

already be in touch with the company, firm, or the production unit that is being established there in terms of the desire of the company officials to start putting up their facilities and later on running their firm.

What I am trying to say, Mr. President, is that, probably, if we are really desirous of getting this bill become a law and later on enforce it, there is no way by which we can avoid tapping the resources of the local government units, not only by way of coordination but of actual participation, for the reasons that I have already tried to indicate.

Senator Honasan. That is correct, Mr. President. I believe the more appropriate term would be a complementary structure that will allow the Department of Environment and Natural Resources to use the mechanism of the Presidential Air Quality Control Commission—to coordinate not only local government units but also agencies and departments like the Department of Transportation and Communications, the director general of the National Economic and Development Authority, the Department of Health, and other such agencies in imposing certain standards for monitoring and checking.

The other area, Mr. President, would be the issuance of the environmental clearances that will allow these factories and industrial centers in each locality to commerce based also on a coordinated development plan.

I would also like to add, Mr. President, that related to this is the local or national land use policy that will allow us at the outset to determine which areas we want for industrial, commercial, agricultural, government centers, recreational, including residential.

Senator Pimentel. The land use policy, Mr. President, is not embodied here; it is embodied in another legislation.

Senator Honasan. It is mentioned, in passing, Mr. President, as one aspect of planning and coordination.

Senator Pimentel. Mr. President, correct me if I am wrong, but from the gentleman's response, it looks as if the formation or identification perhaps of this air quality control zone would be primordial before this Act can even be implemented once it becomes a law. Is my understanding correct?

Senator Honasan. That is correct, Mr. President, the identification. But this will be a function and a result of the DENR's annual report which we term as the—this is in Section 5 of the bill—"National Air Quality Status Report." Then, an Air Quality Improvement Framework Plan will be conceptualized. And only after that shall we identify an air quality control zone based primarily on the recommendation of the local government units involved.

Senator Pimentel. In effect, Mr. President, it would look as if we are harnessing or impressing the services of the DENR primarily for purposes of defining what would be considered an air quality control zone. Is that correct?

Senator Honasan. That is correct, Mr. President, with very significant and critical inputs from the local government units themselves.

Senator Pimentel. From the vast information that the gentleman would have already gathered through committee hearings, what areas in the country, in terms of provinces, cities, municipalities or the like, would we already have any idea where we can begin, Mr. President?

Senator Honasan. Mr. President, that is a very important question in the sense that at the start, we had to use the showcase of air pollution and control which is the urbanized centers, specifically Metro Manila.

Senator Pimentel. Specifically Metro Manila. I have no quarrel with that, Mr. President.

Senator Honasan. If I may continue, Mr. President. As to Metro Cebu and Metro Davao, we are still in the process of consolidating the information and the resource of whatever efforts we have undertaken in terms of testing and monitoring.

Senator Pimentel. I am sorry, Mr. President, but the gentleman forgot one very important area: the Metro Cagayan de Oro, of course.

Senator Honasan. I would like to put on record my apologies to the gentleman from Cagayan de Oro, Mr. President.

Senator Pimentel. I am just trying to put into the *Record* that since Cagayan de Oro is really rapidly urbanizing, there is a need for such a control area for purposes of cleansing the air.

Mr. President, in effect, the major players of this identification of air quality control zone would be people from the Department of Environment and Natural Resources.

Senator Honasan. Mr. President, with the gentleman's permission, I would like to run through the composition of the Presidential Air Quality Commission to give us a bird's-eye view of what agencies could be involved.

Incidentally, Mr. President, the Presidential Air Quality Commission was created by virtue of Executive Order No. 16.

Senator Pimentel. So this was already created.

Senator Honasan. Yes, Mr. President. This was approved on August 21, 1998. The commission will be chaired by the secretary of the Department of Environment and Natural Resources, with the secretary of the Department of Transportation and Communications as vice chairman. The members will be the director general of the NEDA; the secretary of the Department of Health; the secretary of the Department of Trade and Industry; the secretary of the Department of Energy; the secretary of the Department of the Interior and Local Government; the secretary of the Department of Science and Technology; the chairman of the Metropolitan Manila Development Authority; the general manager of the Laguna Lake Development Authority; one representative each from the city and municipal mayors' leagues, and representatives of civil society, business and environment sector to be chosen by the President upon the recommendation of recognized business and environmental nongovernment organizations.

Senator Pimentel. That seems to be a pretty comprehensive list, Mr. President, except for the fact that, probably, the provinces should also be represented. Perhaps we can make the recommendation to the Office of the President through the gentleman's committee.

The reason I am saying that is due to the fact that the gentleman has, in fact, intimated that the problem of pollution defies boundaries. Since in a given local government environment the biggest local government unit would normally be the province, my suggestion would be to also ensure that the province is duly represented in that council so that it can speak not only for the province but for the municipalities as well within that given area.

Senator Honasan. We will take that suggestion, and we are hoping that this can be inputted into the proposed bill itself in the period of amendments.

Senator Pimentel. Were the terms of the executive order embodied in this bill?

Senator Honasan. Executive Order No. 16, Mr. President.

Senator Pimentel. Executive Order No. 16. Were the terms of EO No. 16 embodied also in this bill?

Senator Honasan. Mr. President, that is again another good question. We have not touched the newly created Presidential Air Quality Commission in the bill itself because we were overtaken by events.

Senator Pimentel. In any event, there is no harm to be done if we included some air quality commission of some sort. We can even name it by some other name and provide for the qualifications of those who are to be members of that commission. Because that

is certainly within the province of the legislature to enact into law. Therefore, this is one golden opportunity, as we are tackling this Clean Air Act which the gentleman is sponsoring, to put such a commission within the purview of this bill.

Now, going to Section 8 of the bill, particularly the second paragraph of Section 8 which is found on page 11, I will read it just for our guidance:

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.

Now, the sad experience of our local government units, Mr. President, when they encounter problems of this nature as to whether or not they have attained already the standards set by the national government agency, is that this takes a long time in coming. Meaning to say, government agencies are notorious for refusing to relinquish power once they have acquired such power. Therefore, in this regard, for example, where the local government unit's capacity to assume a function seems to be left to the DENR to recognize, I am worried that this will take forever. As I tried to point out, government agencies would not wish to share power, if they can avoid it.

So, by simply saying, "*Wala pa kayong kakayahan,*" "*Hindi pa ninyo kaya ito,*" DENR can keep on hanging to that power. Incidentally, Mr. President, I am not talking here of something up in the air. I remember that in 1986, if I am not mistaken, a firm was ordered shut down in Bulacan by the local government unit. Questions of law started to arise and then the case got all the way up to the Supreme Court.

The first ruling of the Supreme Court was to sustain the power of the local government unit to issue that order of closure because the pollution affected the health of their constituents in that particular area. Because the local governments have the power of ensuring that the health, the welfare, and the well-being of their communities are duly safeguarded, the closure could be justified on that score.

Then, to my surprise, several months later, several months after the order had become final, another resolution was issued by the Supreme Court overturning the authority which it recognized to have been lodged with the local government unit in this regard.

This is what I am worried about, Mr. President. If we are not, more or less, specific as to the kind of standards—which I do not think we should leave to other agencies—we should, I think, define the standards ourselves so that there is more or less an independent body like Congress, like the Senate, which can define with some precision just exactly when a local government unit can claim to have qualified already for the enforcement of this bill once it becomes a law.

That is a rather lengthy peroration, Mr. President, but I could not put it in so short sentences.

Senator Honasan. Mr. President, I would like to thank the distinguished gentleman for his observation. At the same time, I would like to point out also another complementary mechanism that will allow us to do this, plus the refinements which the distinguished gentleman is proposing.

Under Section 16, Mr. President, we have incorporated here an environment and natural resources office which will be established in every province, city and municipality and which shall be headed by the environment and natural resources officer in accordance with the provisions of Section 484 of Republic Act No. 7160.

I mentioned that because, as stated in Section 16, one of the powers and duties of that office is to prepare the programs related to air quality management. But then I would like to fall back also on the earlier observation of the distinguished gentleman that the DENR has no mechanism to do this. It will have to rely continuously until we develop the other mechanisms for this on the local government units.

But I point this out only in the sense that it may also complement this effort and reduce this tendency to hold on to this responsibility since this office is established at the local government unit level.

Senator Pimentel. Yes, this representation is grateful that Section 16 is indeed established or embodied in this bill.

May I just make this observation, Mr. President, that the establishment of an environment and natural resources office in every province, city or municipality to be headed by the environment and natural resources officer, in accordance with the provisions of Section 484 of Republic Act No. 7160 or the Local Government Code of the Philippines, does not seem to indicate who is going to appoint this person.

Mr. President, I would like to really place on record the fact that there are any number of instances where the local government unit is supposed to have primary jurisdiction in terms of

appointments of personnel who are assigned to do functions within the jurisdiction of the local government units concerned but national agencies also appoint their own man, thereby creating two officials who are supposed to exercise the same function. As a result, there is a lot of confusion in that regard.

I hope that we avoid such a possibility by probably clarifying who is going to do the appointment.

Senator Honasan. Yes, Mr. President, we yield to this observation of the distinguished gentleman, and we shall attempt during the period of amendments to incorporate this as specific and detailed provision.

Senator Pimentel. Thank you, Mr. President.

Now, in Section 19, Mr. President, we have public education and information campaign. This is just a minor observation but it is probably best that all provinces, cities, municipalities, and barangays should be included in the enumeration of those who are mandated to conduct air quality information and education campaign.

Senator Honasan. Thank you, Mr. President. We shall also incorporate this.

Senator Pimentel. Then we have Section 20 which talks about permits. At the proper time, we will probably have to introduce some amendments to make sure that in the matter of enforcing pollution quality controls, my own gut feel is that the local government, pursuant to the standards set by the law, would be in a better position to determine who should get the permit or who should not.

That will be all for now, Mr. President. So, probably, at another time, we will have another opportunity to discuss this bill of the gentleman.

Thank you, Mr. President.

Senator Honasan. Thank you, Mr. President.

Senator Drilon. Mr. President, may I ask that Senator Cayetano be recognized.

The President. Senator Renato L. *Compañero* Cayetano is recognized.

Senator Cayetano. Thank you, Mr. President. Will the good gentleman yield for some questions for the information of this representation?

Senator Honasan. With pleasure and honor, Mr. President.

Senator Cayetano. First of all, Mr. President, let me associate myself with the lofty objectives of this proposed bill which I personally believe is long in forthcoming, and I certainly would wish to congratulate the principal author, the honorable gentleman, for having compiled and filed this bill, knowing how technical and scientific most of these languages of the bill require.

First of all, Mr. President, on a matter of definition of "Air Pollutant" in Section 4. Would smoking by individual in public places be considered an air pollutant?

Senator Honasan. Mr. President, I consider that as a prejudicial question in the light of the situation even in this Chamber.

In the initial stage, Mr. President, that would not be covered except in a situation where testing and monitoring will show that we have achieved dangerous levels of pollution because of sources coming from smokers.

Senator Cayetano. I see. The reason I asked it is that vehicles considered as smoke-belchers are, of course, covered by the definition. If, let us say, one million Filipinos in Metro Manila smoke together, we can imagine the kind of gas or emission or fumes that these one million smokers of either cigarettes or cigars would bring into the air, and definitely that would somehow adversely affect the clean air that we seek to breathe in this bill.

How about these pesticides that are used to either help the vegetables and fruits grow or help in the farms? Would that also be included?

Senator Honasan. Mr. President, I guess the answer would be the same. It would not be covered specifically in the bill unless our ability to test these sources of pollutants will indicate that the use of pesticides have reached an alarming level.

Senator Cayetano. In that situation, is it correct that in the event that smoking by the public and the use of pesticide would reach the dangerous level, as the gentleman has stated, that might conceivably be covered by this bill?

Senator Honasan. That is correct, Mr. President. At policy level, I guess this will be determined by the better judgment of the Presidential Air Quality Commission.

Senator Cayetano. On other parts of the bill, Mr. President, let me call attention to this open burning of refuse, *iyong pagstsiga, wika nga, ng mga basura natin*. Under the bill, it is prohibited to openly burn refuse by any person—I am talking about Section 25—and the same is declared illegal under this bill. As we all know,

in the provinces and rural areas, the customs and habits of family members in cleaning their backyard is to sweep the debris or the refuse in one place and have them burned. If this bill is approved, would this now be considered as a prohibited act?

Senator Honasan. In the bill, it is considered as a prohibited act. But in the open-minded thinking that went into the crafting of this bill, I think it will not be a simple cut-and-dried, either-or situation, Mr. President. Our ability to enforce this provision would be dependent on our ability also to provide alternatives.

Let me explain further, Mr. President. Like in the urban centers, if we consider it criminal or if we disallow the burning of garbage, yet we do not have a system for an efficient garbage collection, then, I guess, that stands to reason that we cannot adequately enforce this provision.

It is also sequential in the sense that we are envisioning also a provision that will mandate segregation of our refuse so that we can compost some of them, we can recycle some of them. In the case of hospital wastes, we can allow more specialized, technical means of incineration to dispose of these wastes.

Senator Cayetano. It is correct, Mr. President, after that explanation, that until a province or a city or a barangay has installed the proper way of disposing waste, that the ordinary way of cleaning up one's backyard, which is to burn the leaves and the other dirt in an open pit, although might be violative of this bill, would not really be punishable, so to speak?

Senator Honasan. I suppose that would be an accurate statement, Mr. President. It would also go hand in hand with our ability at national policy level to determine through scientific testing and monitoring methods if the burning of these leaves has reached alarming proportions that would warrant intervention of this kind. Otherwise, we are left with no recourse but to allow it in a more humane manner.

Senator Cayetano. The reason I asked that is that Section 25 appears to be rather broad and does not speak of whether burning of one family's refuse in an open pit would immediately subject this act as a prohibited act, and not based on whether or not such would contribute to a dangerous level of pollution in the air, so much so that the implementors of this bill, like the local government units, for instance, would have a discretion on whether to impose this particular provision of the bill or not.

Senator Honasan. Mr. President, if I may respond. Mention is made in the bill of "best available technology," which indicates to us that under present conditions, probably we could grant some leeway.

The bill also seeks to ban even the burning of refuse. So it is specific. But regarding our ability to enforce this, that remains to be seen.

In another sense, Mr. President, as information continues to filter in, we have opened this bill to all possible modifications in the light of more current information that will be directed to the committee.

Senator Cayetano. Well, my only concern here is really, while the provision is laudatory in character and enforceable in terms of its objective, nevertheless when we go down to brass tacks, it will be very difficult to require our millions of households in the provinces and the rural areas not to burn their refuse in the backyard in an open pit simply because there are no garbage collectors in many of our barangays, at least at the present time.

Going to another subject, Mr. President. As far as this aircraft noise is concerned, under the bill—I refer to Section 29, page 25—the Air Transportation Office is required to implement whatever standard of aircraft noise will be determined by the department.

At this point in time, in view of the fact that this bill is supposed to be effective immediately after publication, would it really be feasible for the Air Transportation Office to say that the aircraft noise in NAIA, which is surrounded by several housing and commercial activities, be such that the NAIA would have to be closed?

I am sure that without my own personal knowledge of being a technical man as far as the aircraft noise level is concerned, I do recall, Mr. President, that for a long, long time the residents of Moonwalk and another nearby subdivisions in Parañaque were complaining when the NAIA authorities allowed domestic aircraft to land and fly through another direction towards the subdivision because of the noise.

So, how does the sponsor foresee this present problem with NAIA as far as the control and the implementation of this aircraft noise level are concerned?

Senator Honasan. Thank you, Mr. President. This is apparently another tough order to follow. The "pollutants," as traditionally defined, is hard enough as it is to define. But when we talk of aircraft noise pollution... This is why we mentioned in passing land use which will relate to more updated zoning ordinances that will allow us to plan in the long term where our airports should be located vis-a-vis the location also of residential centers.

So, Mr. President, I agree with the observations in this regard. Even if it is incorporated in Section 29, we have to be more liberal about the interpretation.

Senator Cayetano. I recall, Mr. President, that when Narita was being built, thousands and thousands of farmers demonstrated because they complained that their chickens and animals have gone crazy or were not able to couple, so to speak, and produce offsprings. I can imagine in NAIA how many married couples have the same problem with aircraft noise especially in the evening.

Senator Honasan. Mr. President, I completely agree that aircraft noise is really very distracting to all these procedures.

Senator Cayetano. But seriously, Mr. President, how does this bill look up to the situation now in NAIA where it is really in the middle of the housing and commercial activities? Does the good sponsor believe that sooner, rather than later, NAIA would have to be moved out precisely because of the aircraft noise in the implementation of this bill?

Senator Honasan. Yes, Mr. President. This will be a function of long-term planning of the local government involved in these areas.

But let me also add, Mr. President, that as we look at the experience of other more developed and advanced countries in this regard, the United States Clean Air Act considers aircraft noise as air pollution or air pollutant.

Senator Cayetano. Which is considered part of the definition.

Senator Honasan. Yes, Mr. President.

Senator Cayetano. I really have no quarrel with that definition, Mr. President. *Ang inaalaala ko lamang ay ang mga botante, constituent namin dito sa Parañaque, Muntinlupa, Pateros at Taguig na dinaraan ng mga eroplano.* We can just imagine now, there are very few planes, so to speak, compared with the other airports. But if in the next few years our economy and tourism industry improve, then we will really have aircrafts flying over these areas many times over during the day.

Senator Honasan. Mr. President, if I may add to these inputs. I understand that in other areas where residential areas are located close to airports in other countries, they even specify the thickness of the glass in the window panes just to insulate the occupants from this kind of air pollution. So, we look forward to the day when we can also implement this in a more progressive and developed Philippine society.

Senator Cayetano. I guess that situation, Mr. President, would be true where an airport has already been built and then surrounding communities later on grow, so much so that we can specify probably what materials can be used as far as the houses and buildings are concerned.

Anyway, Mr. President, let me go to page 19 which is really of great concern to this representation. Let me read the paragraph that I am concerned with. It says here:

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.

That is the second paragraph of Section 17 found on page 19.

My question, Mr. President, is this: Does this particular paragraph now give the DENR the so-called police power so much so that it can enter a premise or premises where it suspects such prohibited activity is being undertaken or it would require records that ought to be kept without going to court?

Senator Honasan. Mr. President, the bill seeks to empower the DENR to utilize agencies with police powers to conduct this procedure subject to certain legal procedures and, of course, consideration of human rights.

The department itself, if I may continue, Mr. President, is not empowered with police powers.

Senator Cayetano. I see. It is correct then, Mr. President, upon hearing the explanation of the principal sponsor, that this provision on search and seizure actually would have to be previously authorized by the court first upon application of the authorized DENR representatives?

Senator Honasan. Yes, Mr. President.

Senator Cayetano. At the proper time, we could probably introduce amendments to ensure that the intent of the principal sponsor is carried out in this provision which, with due respect to the principal author, is quite vague.

Senator Honasan. We will appreciate this very much, Mr. President.

Senator Cayetano. Thank you, Mr. President.

Section 39 on page 30, Mr. President, speaks of the citizen suit. The question of whether an individual, whether a citizen or not, may initiate a special civil action, I believe, has already been taken up. My concern here is the second paragraph of subsection (c)

which says: "Said action"—meaning, court 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 constitute a risk to public health or safety."

Mr. President, this is really a matter addressed to the concerned court of justice. While it is true that Congress is also empowered to determine for itself the manner by which cases are going to be disposed of, my question here is: Would this action by the court within 48 hours really be another term for an issuance of a temporary restraining order?

Senator Honasan. Mr. President, if warranted, I guess this would include the coverage.

Senator Cayetano. Yes. From my reading of that particular section, Mr. President, there is great need, an urgent need for the court to act precisely because what is being sought to be enjoined is a risk to public health or safety. In this case, the court is being asked to enjoin within 48 hours such activity. Am I correct, Mr. President?

Again, for my own clarification, if indeed what is being sought here is that upon filing of the complaint, there is an allegation that the provision of this bill is being violated and has posed an immediate risk to public health and safety, the courts shall act upon it and, if justified, immediately issue what we lawyers normally call a temporary restraining order.

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

Senator Cayetano. I just want to make that very clear, Mr. President. Certainly, this is a worthy provision that would enhance the implementation of this bill.

That is all, Mr. President. Once again, let me thank the sponsor for the time he has given this representation. Again, let me congratulate him for having filed this timely bill. Difficult as it is, but apparently the good sponsor is very much prepared to answer all our questions.

Thank you, Mr. President.

Senator Honasan. Thank you, Mr. President.

The President. Thank you, Senator Cayetano.

The Majority Leader is recognized.

SUSPENSION OF SESSION

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

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

It was 11:31 a.m.

RESUMPTION OF SESSION

At 11:35 a.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION OF S. NO. 1255

Senator Drilon. I move to suspend consideration of Senate Bill No. 1255 under Committee Report No. 8.

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

Senator Drilon. Mr. President, we are about to adjourn until November 9, 1998. But before that, I wish to bring to the attention of the Chamber that we have a standing resolution, Resolution No. 178, which this Chamber approved, and this authorizes the permanent committees of this Chamber to hold meetings or hearings during the recess of Congress for the purpose of preparing any proposed legislation or investigate any matter falling under their jurisdiction.

This is a standing resolution, Mr. President, enacted last September. Therefore, this is a continuing resolution which will authorize the committees to meet during our recess.

The President. The Majority Leader is referring to Senate Resolution No. 178.

Senator Drilon. That is correct, Mr. President, just for the information of our colleagues.

ADJOURNMENT OF SESSION

Mr. President, since we no longer have any matter on our agenda, I move that we adjourn, in accordance with our Legislative Calendar, until November 9, 1998 at three o'clock in the afternoon.

The President. There is a motion to adjourn until November 9, 1998 at three o'clock in the afternoon. Is there any objection? *[Silence]* There being none, the session is adjourned.

It was 11:37 a.m.