

## RECORD OF THE SENATE

**THURSDAY, JUNE 5, 1997**

### RESUMPTION OF SESSION

*At 9:45 a.m., the session was resumed, with Senate President Ernesto M. Maceda, presiding.*

**The President.** The session is resumed.

**Senator Tatad.** Mr. President, I move that the Secretary read the Additional Reference of Business.

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

The Secretary will read the Additional Reference of Business.

### ADDITIONAL REFERENCE OF BUSINESS

#### BILLS ON FIRST READING

**The Secretary.** Senate Bill No. 2088, entitled

AN ACT CONVERTING THE BULACAN NATIONAL AGRICULTURAL SCHOOL (BUNAS) IN THE MUNICIPALITY OF SAN ILDEFONSO, PROVINCE OF BULACAN, INTO AN AGRICULTURAL COLLEGE, TO BE KNOWN AS THE BULACAN NATIONAL AGRICULTURAL COLLEGE AND APPROPRIATING FUNDS THEREFOR,

Introduced by Senator Macapagal

**The President.** Referred to the Committee on Rules

**The Secretary.** Senate Bill No. 2089, entitled

AN ACT ESTABLISHING A NATIONAL HIGH SCHOOL IN BARANGAY HONDAGUA, MUNICIPALITY OF LOPEZ, PROVINCE OF QUEZON, TO BE KNOWN AS HONDAGUA NATIONAL HIGH SCHOOL, AND APPROPRIATING FUNDS THEREFOR,

Introduced by Senator Macapagal

**The President.** Referred to the Committee on Rules

**The Secretary.** Senate Bill No. 2090, entitled

AN ACT ESTABLISHING A FARM MACHINERIES

### MANUFACTURING PROGRAM AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Honasan

**The President.** Referred to the Committees on Trade and Commerce; Agriculture and Food; and Finance

**The Secretary.** Senate Bill No. 2091, entitled

AN ACT PROVIDING FOR COMPREHENSIVE CONSERVATION, PROTECTION, UTILIZATION, DEVELOPMENT AND MANAGEMENT OF THE PHILIPPINE EXCLUSIVE ECONOMIC ZONE (EEZ)

Introduced by Senator Honasan

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

**The Secretary.** Senate Bill No. 2092, entitled

AN ACT INCREASING THE RETIREMENT AND SEPARATION BENEFITS OF MILITARY PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES AMENDING FOR THE PURPOSE THE AFP MILITARY PERSONNEL RETIREMENT AND SEPARATION DECREE OF 1979, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Honasan

**The President.** Referred to the Committees on National Defense and Security; and Finance

**The Secretary.** Senate Bill No. 2093, entitled

AN ACT INCREASING VACATION AND SICK LEAVE BENEFITS OF GOVERNMENT EMPLOYEES AND FOR OTHER PURPOSES

Introduced by Senator Honasan

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

**The Secretary.** Senate Bill No. 2094, entitled

AN ACT AMENDING REPUBLIC ACT NO. 7610, OTHERWISE KNOWN AS THE "SPECIAL

## RESUMPTION OF SESSION

*At 5:01 p.m., the session was resumed.*

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

**Senator Tatad.** Mr. President, I withdraw my standing motion on Senate Bill No. 1708, and I move for the suspension of the consideration of the same.

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

## CONFERENCE COMMITTEE REPORT ON S. NO. 950/H. NO. 6265 (The Anti-Rape Bill)

**Senator Tatad.** Mr. President, I move that we now consider the Conference Committee Report on the disagreeing provisions of Senate Bill No. 950 and House Bill No. 6265.

**The President.** Is there any objection? [Silence] There being none, the motion is granted. Consideration of the Conference Committee Report is now in order.

**Senator Tatad.** I ask that the distinguished chairman of the Senate panel be recognized.

**The President.** The senator from Quezon City, Iloilo, and Negros Occidental, Sen. Anna Dominique M.L. Coseteng, is recognized.

## REPORT OF SENATOR COSETENG

**Senator Coseteng.** Thank you, Mr. President, my colleagues.

After close to a decade, Mr. President, it is with privilege and with honor that we are now finally enacting into law the "Anti-Rape Bill"—Senate Bill No. 950 and House Bill No. 6265 disagreeing provisions have already been fleshed out in several bicameral conference committee hearings and several individual caucuses of both House and Senate panels.

At the outset, I would like to express my thanks to all our colleagues who have been very supportive and also to the sponsors of the bills that will give protection to women and victims of rape.

This has been a very emotional issue, Mr. President.

Senator Shahani has very carefully, diligently, and dedicatedly shepherded these bills. Senator Roco, Senator Santiago, and all those who had participated in the crafting of this final version ought to be commended for their patience, their dedication, their very valuable inputs as well.

Mr. President, colleagues: It was not very easy to see this day when we finally present this to the Body, to our honorable colleagues on the last day of our Second Regular Session of the Tenth Congress. And I know that it is going to be given full support by our colleagues.

I appeal to our colleagues to give us the cooperation we need as we know victims continue to remain helpless while this bill has been pending all these years.

I would like to make of record, Mr. President, this joint statement of the Conference Committee representing the Senate and the House of Representatives on the disagreeing provisions of Senate Bill No. 950 and House Bill No. 6265.

We submit this in explanation of the amendments agreed upon by the conferees and recommended in the accompanying Conference Committee Report.

Mr. President, the conferees agreed to adopt another working draft prepared after consultation between and among the Senate and House conferees. If the Chair will note, there were several untoward incidents that happened but all the members of the Bicameral Conference Committee had put their heart and soul into the crafting of this bill.

Section 1 of the Senate version was adopted. However, the figure "6" was changed to No. 7.

Section 2 of the Senate version was also adopted.

Chapter III, Article 266(A), the new revision in the Senate version was adopted with the following amendments:

On Section 1(B), the word "woman" was deleted and in lieu thereof, the phrase OFFENDED PARTY was inserted.

On Section 1(C), the comma (,) after the word "machination" was deleted and in lieu thereof, the word OR was inserted. The word "relationship" was also deleted.

On Section 1(D), the word "woman" was also deleted and in lieu thereof the phrase "OFFENDED PARTY" was inserted.

On the same Section 1(D), the House version was adopted retaining the age requirement under the Revised Penal Code.

Sections 2, 3 and 4 of Article 266(A) of the Senate version were consolidated, hence, the proviso would now read as follows:

2. By any person who, under any of the circumstances mentioned in paragraph one hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth or anal orifice or any instrument or object into the genital or anal orifice of another person.

Mr. President, Article 266(B) on penalties was culled from both versions, more from the House version with a few modifications incorporating other provisions as well as amendments discussed during the bicameral conference last June 3, 1997.

A new section on penalties will now read as follows:

**ARTICLE 266(B). PENALTIES. - RAPE UNDER PARAGRAPH ONE OF THE NEXT PRECEDING ARTICLE SHALL BE PUNISHED BY RECLUSION PERPETUA. WHENEVER THE RAPE IS COMMITTED WITH THE USE OF A DEADLY WEAPON OR BY TWO OR MORE PERSONS, THE PENALTY SHALL BE RECLUSION PERPETUA TO DEATH.**

This was in the Senate and House versions.

When the victim has become insane on the occasion of the rape, the penalty shall be *reclusion perpetua* to death.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to death. We followed the House version, Mr. President.

When by reason or on the occasion of the rape, homicide is committed, the penalty shall be death. This is found in both the Senate and House versions.

The death penalty shall also be imposed if the crime of rape is committed with any of the following aggravating/qualifying circumstances:

1. When the victim is under 18 years of age and the offender is a parent, ascendant, stepparent, guardian, relative by consanguinity or affinity within the third civil degree or common law spouse of the parent of the victim. That is the House version.

2. When the victim is under the custody of the police or military authorities or any law enforcement or penal institution.

3. When the rape is committed in full view of the spouse,

parent or any of the children or other relatives within the third civil degree of consanguinity.

Mr. President, this was the Senate and House versions except the word "spouse" which originally was "husband".

4. When the victim is a religious engaged in legitimate religious vocation or calling, and is personally known to be such by the offender before or at the time of commission of the crime. This is the House version.

5. When the victim is a child below seven years old. This is the House version.

6. When the offender knows that he is afflicted with human immuno deficiency virus (HIV), acquired immune deficiency syndrome (AIDS), or any other sexually transmissible disease, and the virus or disease is transmitted to the victim. This is found both in the Senate and House versions.

7. When committed by any member of the Armed Forces of the Philippines or paramilitary units thereof, or the Philippine National Police, or any law enforcement agency, or penal institution; when the offender took advantage of his position to facilitate the commission of the crime. This is found in the Senate and House versions.

8. When by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation or disability. This is a House version amendment.

9. When the offender knew of the pregnancy of the offended party at the time of the commission of the crime. This is found both in the Senate and House versions.

10. When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime. This is the Senate and House versions.

"Rape under paragraph 2 of the next proceeding article shall be punished by *prision mayor*." That was found in the House version. And whenever rape is committed with the use of a deadly weapon, or by two or more persons, the penalty shall be *prision mayor* to *reclusion temporal*. This is found in the House version.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be *reclusion temporal*.

When the rape is attempted and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion*

*temporal to reclusion perpetua. Reclusion temporal* shall also be imposed if the rape is committed with any of the ten aggravating qualifying circumstances mentioned in this Article.

Article 266(D), on Presumptions, was amended:

**ARTICLE 266(D). PRESUMPTIONS.** - ANY PHYSICAL, OVERT ACT MANIFESTING RESISTANCE AGAINST THE ACT OF RAPE IN ANY DEGREE FROM THE OFFENDED PARTY OR WHERE THE OFFENDED PARTY IS SO SITUATED AS TO RENDER HER INCAPABLE OF GIVING VALID CONSENT, MAY BE ACCEPTED AS EVIDENCE IN THE PROSECUTION OF THE ACTS PUNISHED UNDER ARTICLE 266(A).

Article 266(E) of the Senate version on civil liability of persons guilty of the crime of rape was deleted.

Article 266(F) of the Senate version on effect of pardon was adopted.

Section 3 of the Senate version on suspension of certain public officers and employees was deleted.

Section 4 of the Senate version on duty of the police officer was deleted.

Section 5 of the Senate version on protective measures was deleted.

Section 6 of the Senate version on rape crisis center was deleted.

Section 7 of the Senate version on appropriation was deleted.

The separability clause of the Senate version was adopted, Mr. President.

The repealing clause of the Senate version was adopted.

The effectivity clause of the Senate version was adopted.

And the title of the reconciled version shall read as follows:

**AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS THE CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE R. A. 2815, AS AMENDED, OTHERWISE KNOWN AS "THE REVISED PENAL CODE AND FOR OTHER PURPOSE."**

Mr. President, I would like to put on the *Record* that the deletion of the provisions mentioned earlier—from Section 3 of the Senate version on suspension of certain public officers and employees, to Sections 4, 5, 6 and 7—were deleted not because the members of the Bicameral Conference Committee were not in favor of these sections.

However, based on the arguments that were presented, it was agreed upon by the members of the Senate panel that a separate bill will be filed quoting word for word the provisions that were deleted, and that they would be approved as soon as possible when we come back in July.

Both panels also felt that these are administrative measures that should not be incorporated in the bill which will amend the Revised Penal Code. These administrative matters could be tackled by two other bills that would be filed.

Mr. President, both chairpersons, Cong. Edgar Lara and myself signed the report together with the other members as follows:

The House panel—Representatives Baltazar Satur, Luz Bacunawa, Leonor Luciano, Bellaflor Angara Castillo, Ronaldo Zamora, and Thelma Almario; Senate panel—Senators Raul Roco, Miriam Defensor-Santiago, Franklin Drilon, Marcelo Fernan, and Leticia Ramos-Shahani.

**The President.** The Majority Leader is recognized.

#### APPROVAL OF THE CONFERENCE COMMITTEE REPORT ON S. NO. 950/H. NO. 6265

**Senator Tatad.** Mr. President, I move for the approval of the Conference Committee Report.

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

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

#### JOINT EXPLANATORY STATEMENT OF THE CONFERENCE COMMITTEE

The Conference Committee of the Senate and the House of Representatives on the disagreeing provisions of Senate Bill No. 950 and House Bill No. 6265 submits the following joint statement to the Senate and the House of Representatives in explanation of the amendments agreed upon by the Conferees and