

TUESDAY, APRIL 11, 2000

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BILL ON SECOND READING
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Management Act of 1999
(Continuation)

Senator Drilon. Mr. President, I move that we resume consideration of Senate Bill No. 1595 as reported out under Committee Report No. 52.

The President. Is there any objection? [Silence]
There being none, resumption of consideration of Senate Bill No. 1595 is now in order.

Senator Drilon. Mr. President, we are still in the period of interpellations. May I ask the Chair to recognize the principal sponsor, Sen. Loren Legarda-Leviste.

The President. Sen. Loren Legarda-Leviste is recognized.

Senator Drilon. To interpellate, may I ask the Chair to recognize Sen. Miriam Defensor Santiago.

The President. Sen. Miriam Defensor Santiago is recognized.

Senator Santiago. Thank you, Mr. President.

Will the sponsor yield the Floor to this representation, please?

Senator Leviste. Definitely, Mr. President, to the distinguished Senator from Panay.

Senator Santiago. Thank you. I would like to give fair notice to our colleagues who might otherwise have pressing commitments at this hour that this is going to be a lengthy interpellation.

The first question: In January 1995, the Japan International Cooperation Agency or JICA embarked on a study to formulate a comprehensive master plan and feasibility study for solid waste management in Metro Manila until 2015. The study, which was conducted for three years, was done with the help of consultants from the Pacific Consultants International and Cocosai(?) Cogeo Company Limited, as well as an MMDA technical team.

The objectives of the plan include the upgrading of sanitary level; creating a practical and sustainable solid waste management plan; enhancing public participation; coming up with adequate disposal facilities; improving collection efficiency to at least 90% by 2010; and uplifting the capabilities of the institutions involved.

My question is this: Was this study by JICA considered in the preparation of this bill? And if so, which of the recommendations in the study were adopted?

Senator Leviste. Yes, Mr. President. In fact, this study was integrated into the bill and this was discussed during the TWGs and during the committee hearings where the members of the EMB and the DENR were represented. The members of the recycling industry were also actively involved in the formulation of this measure.

This solid waste management measure aims to institutionalize the creation of a national policy for the recycling, reuse and segregation at source of solid waste. The intention of the JICA project was included in this bill, and therefore the objectives are the same. It is hoped that through this bill, which institutionalizes the solid waste policies of government, the JICA project would be integrated and would continue to be integrated in a national policy.

Senator Santiago. I am glad to learn of this affirmative answer. And so may I follow it up by requesting details--where and in what particular page

and line numbers are the recommendations of the JICA study?

Senator Leviste. Mr. President, at least two prominent features of the JICA study are integrated in this bill. And if I may mention, the first is the promotion of recycling activities; the second is the upgrading of landfills and the eventual abolition of the use of unsanitary open dump sites.

Senator Santiago. May I have the page and line numbers, please?

Senator Leviste. Page 8, line 28, letter (b), the prohibition of the establishment of new open dumps within the local government unit and require that all solid wastes shall either be utilized for resource and energy recovery or disposed of in sanitary landfills or otherwise disposed of in any other environmentally sound manner.

Senator Santiago. May I have the numbers again, please?

Senator Leviste. Page 8, line 28, Mr. President.

Senator Santiago. Do we have only one version of the bill, Mr. President?

Senator Leviste. I am reading, Mr. President, from the Committee Report.

Senator Santiago. My copy of the bill on line 28 reads: "officers shall be responsible for the local implementation of the national standards and guidelines as well as of the local ordinances on local solid waste management."

Is there a subsequent copy to the one I am using?

Senator Leviste. I believe, Mr. President, there is only one copy of the Committee Report.

May we request the Secretariat to provide the distinguished lady Senator with a copy of this Committee Report. There is only one copy and the copy which I am holding has this JICA objective on page 8, line 28. That is in Section 12 of the Committee Report under the Local Waste Management Action Plans.

Senator Santiago. Could the distinguished sponsor read it back to me, please?

Senator Leviste. Under Section 12, line 28 of page 8, letter (b):

Prohibit the establishment of new open dumps within the local government unit and require that all solid waste shall either be utilized for resource/energy recovery or disposed of in sanitary landfills, or otherwise disposed of in any other environmentally-sound manner.

Senator Santiago. I am sorry, Mr. President, but the copy that has been furnished to me by the Secretariat does not indicate the provisions that have just been read by the distinguished sponsor.

May I request the Secretariat please to consult with the sponsor so that we shall be using the same copy?

Senator Leviste. May we request the Secretariat to give the Senator a copy of the Committee Report?

Senator Santiago. Mr. President, may I please request from the Secretariat information on what is the authoritative copy and to furnish the sponsor and myself with copies of that authoritative copy so that we shall be using only one copy.

The President. The Secretariat shall immediately comply with the request of the Senator from Iloilo.

SUSPENSION OF SESSION

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

It was 4:42 p.m.

RESUMPTION OF SESSION

At 4:44 p.m., the session was resumed.

The President. The session is resumed.

Senator Leviste is recognized.

Senator Leviste. Mr. President, just for clarification. The Committee Report used earlier was the one used as filed. And just to be consistent, we have received a copy of the Committee Report from the Secretariat which was the one that was reproduced by the Secretariat. So to be consistent, we will use the one that was reproduced by the Secretariat.

Mr. President, if we are to answer the question on this Committee Report, it is on page 14, line 7(b):

Prohibit the establishment of new open dumps within the local government unit and require that all solid waste shall either be utilized for resource/energy recovery or disposed of in sanitary landfills, or otherwise disposed of in any other environmentally-sound manner.

May we also cite on line 12(c), also on the same page:

Provide for the phaseout or eventual closure or upgrading into sanitary landfills of all existing open dumps within the local government unit within the prescribed timetable and pursuant to the provisions of this Act.

Senator Santiago. I thank the distinguished Sponsor for that answer, Mr. President.

The question was: Which of the study's recommendations were adopted in this bill?

The answer indicates that only two of the recommendations were adopted. As I have said--and I repeat--the objectives of the JICA plan included the following: the upgrading of the sanitary level. That seems to be the recommendation adopted by this bill because on page 14, lines 7 and 12, there are provisions which are intended to upgrade the sanitary level. So we have at least one case where a recommendation of the JICA study has been adopted. There are many recommendations but we have only one that has been adopted.

How about the recommendation to create a practical and sustainable solid waste management plan to enhance public participation, to come up with adequate disposal facilities, to improve collection efficiency to at least 90% by the year 2010, and to uplift the capabilities of the institutions involved? These are all recommendations by the JICA study and, apparently, these are not included in our present bill.

My question will therefore have to be: Why are these not included?

Senator Leviste. Mr. President, if the distinguished Senator would turn to Section 11, page 12, on the National Solid Waste Management Framework, it particularly specifies the concept of the National Solid Waste Management Action Plans and this was also adopted from the JICA study. This seeks the creation or the establishment of the National Council which would create an integrated national and local solid waste management framework program which shall be promulgated and shall include the publication of an inventory of all solid waste disposal facilities or sites in the country which are classified as open dumps. This would also include the characteristics and conditions of collections, storage, processing, disposal, et cetera. These are contained in

Chapter II, page 12, under the Solid Waste Management Framework and Action Plans.

Senator Santiago. I thank the distinguished Sponsor for that answer, Mr. President.

I am going one by one over the recommendations of the JICA study because the original answer was that the recommendations have been adopted in this bill. But so far, I have seen that only two of the recommendations are supported by specific provisions in the bill.

First, upgrading the sanitary level; and second, creating a practical and sustainable solid waste management plan. Please allow me to go over the rest of the recommendations.

May I have the provisions in the bill which adopt the recommendation to enhance public participation?

Senator Leviste. Mr. President, I have already mentioned two sections. May I also add Sections 18, 20 and 27 of the bill. Under Section 18, this also allows the National Council, in coordination with the Philippine Information Agency, the DECS and other concerned agencies to conduct a continuing education and information campaign on solid waste management.

In Section 20, this would also encourage the business and industrial sectors, through the formulation of appropriate incentives, to manufacture environment-friendly products, to introduce, develop and adopt innovative processes that recycle and reuse materials that conserve raw materials and energy and reduce waste and prevent pollution, and to undertake community activities to promote effective solid waste management practices.

Senator Santiago. Mr. President, so far, we have dealt with three recommendations.

Let me now come to recommendation No. 4, coming up with adequate disposal facilities. May I have the

provision of the bill that reflects this recommendation, please?

Senator Leviste. Before I go to that, Mr. President, may I kindly also cite Section 27 which promotes the recycling industry.

On page 21, Section 27, line 7, it cites the incentives which shall be provided to registered investors who reduces their on-stream waste in accordance with standards established by the Department of Trade and Industry.

Now, to the other question on management of wastes, let us please turn to page 14, Section 12, which is the *Local Waste Management Action Plans*. It provides: "All solid waste management action plans of local government units must comply with the guidelines established by the National Council."

Letter (e) of this section also provides for resource conservation or recovery schemes and disposal of solid waste in sanitary landfills or any combination of practices, such as, but not limited to, segregating at source, recycling, reuse, and composting, as may be necessary to use or dispose of such waste in a manner that is environmentally sound.

Senator Santiago. If that is the sum of the answer for the recommendation on adequate disposal facilities, Mr. President, please allow me to move on down the list of recommendations.

The next recommendation is improving collection efficiency to at least 90% by year 2010. May I have the specification of the provision which reflects this recommendation.

Senator Leviste. Mr. President, may we please turn to page 8, Section 7, line 17. It states:

The provincial, municipal, city and
barangay governments, through the local

government sanggunians and in consultation with the local solid waste management councils, shall draft and adopt local solid waste management action plans and programs. In order to ensure optimal utilization of valuable resources and encourage resource conservation, including waste minimization, in all residential houses, commercial and industrial establishments, educational institutions, agricultural, and other areas through environmentally sound solid waste management techniques and mechanisms, the local health and/or general services officers shall be responsible for the local implementation of the national standards and guidelines as well as of the local ordinances on local solid waste management.

Senator Santiago. May I have the page and line numbers, please?

Senator Leviste. That is on page 8, line 17 up to line 30, Mr. President.

Senator Santiago. I have found it.

May I please have a specification of where the provision mandates improvement of collection efficiency to at least 90% by a certain year, say, 2010?

Senator Leviste. Yes, Mr. President. It does not specifically say that it should be reduced by a certain percentage or during a certain duration, but it definitely includes the mechanism within which the provincial, municipal, city and barangay governments could cooperate with the national government in trying to come up with that objective.

Senator Santiago. The problem with general provisions is, when there are no time deadlines or time horizons that is not taken as an imperative mandate or order of the law but simply as a guide.

Therefore, I would like to raise the question: Why was the specific recommendation to improve collection efficiency to at least 90% by year 2010 not specifically adopted in this bill, specifically on page 8, starting with line 17? What was the reason?

Senator Leviste. Mr. President, this was discussed during the committee hearings. It was agreed by all parties concerned, including those representing the private sector and the recycling industry, that this could be discussed and identified in the implementation or in coming up with the IRR.

However, if the distinguished Senator can include some of her enlightened suggestions, we will be more than willing to include them during the period of amendments.

Senator Santiago. Mr. President, I would like to take exception to the statement that the improvement of collection efficiency to at least 90% by 2010 could be left safely to the implementing rules and regulations. I will invoke the principle in Administrative Law that legislative power cannot be delegated except only when two criteria are met: One, when the law is complete; and two, when the standards are sufficient.

I do not see indications of any sufficient standards to comply with the administrative requirement. Therefore, I will have to give notice that during the period of amendments, I shall move to amend the proper provision so that the improvement of collection efficiency to at least 90% by 2010 shall be specifically and explicitly made part of this bill.

Finally, Mr. President, going down this list of recommendations from JICA, may I request where in the bill can the provision uplifting the capabilities of the institutions involved be found?

Senator Leviste. Mr. President, may we please turn to page 10, Section 8, line 6, *The National Ecology Center*. It says that the National Ecology Center of the National Council shall provide consulting, information,

training, and networking services for the implementation of the provisions of this Act.

It will facilitate the training and education in recycling; establish and manage a recycling information data base that links waste generators and recyclers and is accessible to other sectors as well; provide or facilitate expert assistance in pilot modeling of recycling facilities.

Senator Santiago. I beg the indulgence of the sponsor. It appears to me that Section 8 of this bill is merely an enumeration of the functions of an existing institution, the National Ecology Center and, therefore, will not be responsive to my question of where in the bill is uplifting the capabilities of the institutions involved found. I am not asking about the functions of existing institutions but about uplifting their capabilities, in other words, empowering them to discharge more functions that they are already discharging at present.

Senator Leviste. Mr. President, if I may just clarify. This center is not yet operational and is not in existence yet. Therefore, while we appreciate and recognize the importance of the points raised by the distinguished Senator,--and we wholeheartedly agree that these provisions must be included--we believe that the empowerment of these institutions will be improved through the facilitation of training and education in recycling and the establishment of a data base through the National Ecology Center which will be created by the enactment of this measure into law.

Senator Santiago. In other words, the capabilities of the institutions involved are not being uplifted but another institution is being created. Would that be a correct resume of what has just been the answer to my questions?

Senator Leviste. Yes, Mr. President. The National Ecology Center will be created to assist the National Council, and this National Ecology Center will be tasked

with the establishment of a data base. It will also be tasked with the research and dissemination of information to the local councils and the local ecology centers.

Senator Santiago. In that case, may I repeat my question. Where in this bill can we find a provision uplifting the capabilities of the institutions involved, already conceding that we have here in Section 8 the creation of a new institution?

Senator Leviste. Mr. President, it is not specifically mentioned in any provision of the bill. However, that is the intent of the bill--through the creation of the National Solid Waste Management Council. We believe that through the creation of this Council on the national level and through the creation of local solid waste management councils and the counterpart ecology centers, this objective will be accomplished.

Senator Santiago. I regret to say that I do not concur with that observation since the recommendation of the JICA study was very specific. It was to uplift the capabilities of the institutions; it was not to create new institutions.

So, I would just like to know if there is an answer to the question. Is there any provision uplifting capabilities? If there is none, then I can take that as the answer.

Senator Leviste. Yes, Mr. President. Through the creation of the councils and ecology centers, we believe that this could uplift the conditions or the capability of the councils. But if the distinguished Senator wants to find out if there is any provision that particularly has those words in the way it was conveyed, then I regret to say that it is not included as is. However, we believe that that intention or objective is addressed, as

I mentioned earlier, through the creation of a National Council.

Senator Santiago. Again, I beg the indulgence of the sponsor. But I do not see it with those optics. The recommendation is to uplift capabilities. It is not to increase capabilities. That means that there is an existing capability and the bill would then seek to uplift it. But if there is no such capability at present, or if there is such a capability and there is no attempt to uplift it, that also would be sufficient answer and I would proceed accordingly.

Senator Leviste. Yes, Mr. President. Presently, it is the local governments that are empowered or tasked to conduct the collection of garbage. And hopefully, with the enactment of this bill into law and the creation of the solid waste councils and the local ecology centers, these local governments, the institutions which are mandated to do the collection, will be empowered and uplifted in terms of the solid waste management policies.

Senator Santiago. I will let that lie, and to save time, I will proceed to my second question.

In October 1993, former President Ramos issued Administrative Order No. 90 which created a project management office on solid waste management under the Presidential Task Force on Waste Management. Obviously, that was a failure as we can see from the enormity of the present waste problem which we inherited from the previous administration.

At present, we have a presidential consultant, Raul Roberto De Guzman, on environment and water. Likewise, the DENR has a task force on solid waste management.

Now, this bill aims to create another entity, some sort of a supercoordinating body with P40 million to spend as operating expenses. Instead of creating yet another council composed of part-time directors, many of whom are not even technically equipped to justify their membership in this body, why do we not just create an independent agency that will work full time and concentrate solely on solid waste management?

Senator Leviste. Mr. President, the director or head of this Council who will be appointed by the President will work on a full-time basis. The members of the Council will consist of directors who are supposed to be experts in their fields of endeavor from the different government agencies as stipulated in the bill. They would also include the private sector, including the recycling industry, the packaging industry and the sectors which are affected by this bill. Therefore, we believe that the creation of this Council will integrate all the efforts created by the different administrations in trying to solve this social, environmental, even political issue of garbage management.

Senator Santiago. I note this answer, Mr. President, but I beg the indulgence of the Senate President in insisting on this question. Apparently, the sponsor admits that the National Council shall be composed of part-time directors. Therefore, I will have to repeat the question.

Instead of creating yet another council composed of part-time directors, why do we not create an independent agency that will work full time? I am perfectly willing to concede that the chair is intended to be full time, but the members of the council will be working part time because they are already incumbents of other various government agencies.

Senator Leviste. Yes, Mr. President. They are already involved in other agencies because we believe that they are experienced in their efforts by performing their task in those government agencies like the DECS, the DENR, the PIA, and the DPWH. This could be a coordinating body and coordinating council so that the efforts of this Council will be done in coordination with the efforts of the other departments of government.

In the meanwhile, the private sector which has been actively pursuing solid waste management in its respective communities will also be actively participating in this. And it is also envisioned that

the private sector will have a big say, a large part, a big involvement in the running of this Council.

Senator Santiago. With the indulgence of the Chair, I will return to this point in a minute. But this parenthetical thought has just crossed my mind.

The short title of Senate Bill No. 1595 is the « Integrated Solid Waste Management Act of 1999. » The term « solid waste management » is mentioned many times throughout this proposed bill and yet the bill fails to define this process.

So may I raise the obvious question: What is the definition of « solid waste management » ?

Senator Leviste. It is on page 5, Mr. President. « Solid Waste » is identified as domestic and municipal refuse, animal waste, crop residues, and nonhazardous waste such as commercial and institutional wastes, street sweepings, and construction debris.

Senator Santiago. I will concede that on page 5, lines 1 to 4, the bill defines « solid waste. » What I am requesting is an answer to the question: What is the definition of « solid waste management » ?

Senator Leviste. Well, « solid waste management, » Mr. President, would refer to the operational framework within which solid waste as identified and defined on page 5, line 1 would be. It would be the management, the operational framework within which solid waste would be reused, segregated, recycled. That is my answer to the question of the lady Senator.

Senator Santiago. Mr. President, may I please very humbly observe that the definition offered seems to be a tautology in that it defines the term by using the term.

Would it not be acceptable to define « solid waste management » as « referring to the systematic administration of activities which provide for the collection, source, separation, storage, transportation,

transfer, processing, treatment and disposal of solid waste as is defined by the United States Solid Waste Disposal Act?

Senator Leviste. Yes, Mr. President. The definition can be integrated into this committee report.

Senator Santiago. Thank you. Now I will refer to page 6, lines 20 to 31 and I will jump over to page 7, lines 1 to 4. I am referring to this provision: The National Council shall be composed of the following members: (1) Director of EMB; (2) Director of the DTI (3) Director of the DOH; (4) Director of the DILG; (5) Director of the DA; (6) Director of the DECS; (7) Director of the DOST; (8) Chairman of the MMDA; (9) President of the League of Provincial Governors; (10) President of the League of City Mayors; and (11) Four representatives from the private sector, including the recycling and composting industries, the advocacy, business and consumer sectors.

We all know who is the director of the EMB, the chair of the MMDA, and the presidents of the Leagues of Governors and City Mayors. But I still have to raise a series of questions with respect to the others.

(a) With so many directors in each department, which specific director of the DTI will be the member of the Council?

Senator Leviste. Mr. President, the Chairman of the Council who will be appointed by the President will determine the directors of these government agencies who will be assigned to the Council.

Senator Santiago. I wonder if that might not constitute an invalid delegation of legislative power. Would it not be in the DTI, for example, the Director of the Office of Special Concerns, since there is no specific director in that department? Would it not be logical to assume that it will be the Director of the Office of Special Concerns? But let me go down this list:

(b) Which director of the DOH?

Senator Leviste. The Council Chairman, Mr. President, in coordination with the Secretary of the department, will determine according to the assignments given the directors and the concerns, and the units which he represents, who among the directors will be assigned to the National Council.

Senator Santiago. I am afraid that this provision will not meet the test, for a valid delegation of legislative power which I have earlier observed posits two criteria: The first is that the law must be complete--the completeness of statute criterion. And the second is that there must be sufficient standards to guide the delegated administrative agency in enforcing the will of Congress. Therefore, if we go by these two criteria, it would not be acceptable in a legal sense for the National Council members to be designated at some future time by the Chairman. The Congress is mandated by the principle of nondelegation of legislative power to indicate which particular director of all these government departments is intended to become a member of the Council.

Let me say, for example, with respect to the Department of Health, maybe it would be logical to indicate that this particular director should be the Director of the Environmental Health Service. In the DILG, maybe it should be the Director of the Bureau of Local Government Development or maybe the Director of the Bureau of Local Government Supervision. In the DA, would it not be the Director of the Bureau of Soils and Water Management? In the DECS, it would be the Director of the Bureau of Elementary Education or the Director of the Bureau of Secondary Education. In the DOST, the logical person would be the Director of the Philippine Council for Agriculture, Forestry and Natural Resources, Research and Development, or possibly even another director.

So, may I strongly suggest that going by the basic principles of administrative law, this provision should

be streamlined so as to specify and indicate the particular director who is meant to sit within the National Council.

Senator Leviste. Yes, Mr. President. The sponsor willingly and wholeheartedly agrees with the distinguished Senator. Of course, it was envisioned that the Council chairman, in consultation with the Secretary, will determine who among the directors will sit in the National Council. But the suggestion of the Senator is well-taken and could be included in a more specific portion of the provision.

Senator Santiago. I would now like to go, with the permission of the Senate President, to page 7, lines 3 and 4. This provision includes the President of the League of Provincial Governors and the President of the League of City Mayors as members of the National Council. My question is: Why were the President of the League of Municipal Mayor, and the President of the Association of Barangay Council, not included in light of the inclusion of the other two presidents? Are these latter two officials, as president of their respective national organizations, not also involved in the preparation and implementation of local solid waste action plans in accordance with the provisions of this proposed bill? In other words, why did we pick and choose?

Senator Leviste. Yes, Mr. President. During the committee hearings and the TWGs, it was decided that the barangays and the municipalities will already be represented by the provincial governors and the city mayors.

Senator Santiago. I wonder what the municipal mayors and the barangay chairmen have to say about this point of view.

Senator Leviste. Mr. President, this is only the National Council. If we recall, a portion of the bill was read earlier where there would be local solid waste management councils in each municipality even down to each barangay. That is where each municipal mayor will

head the local municipal solid waste management council and each barangay chairman will head his own barangay solid waste management council. Therefore, we felt during the time of the hearings that the municipal mayors will be able to perform their task as head of their own local councils.

Senator Santiago. I am willing to see things that way, but we are not talking of the municipal mayors or of the members of the barangay councils. We are talking of just two people--the president of the League of Municipal Mayors and the president of the Association of Barangay Councils--in light of the fact that this bill provides that the president of the League of Provincial Governors and the president of the League of City Mayors shall be members of the National Council.

Senator Leviste. Mr. President, at the right time, if the distinguished lady Senator would want to include the two presidents of the barangay councils and municipal mayors, we would be more than willing to accept that amendment in the future.

Senator Santiago. I am still on page 7. I am now on lines 5 to 7.

Just very brief questions. What will be the qualifications of the four representatives from the private sector?

Senator Leviste. The private sector representatives must have some experience and some knowledge of the recycling industry, and proof of these would be their own experiences in their respective communities and barangays. There are a number of women and several groups who have been very active in trying to not only lobby for the enactment of this bill but also in trying to replicate in other areas around the country their success stories in their respective areas. Therefore, it would not be difficult, to my mind, to find representatives of the private sector who are actively involved in the recycling industry.

Senator Santiago. The qualifications seem to be some knowledge and some experience. Could the lady Senator please quantify or specify what is the meaning of "some knowledge"?

Senator Leviste. "Some knowledge" would mean, recycling would be practiced under the helm or leadership of that particular person, being the head of an organization, an NGO or a foundation, that deals with recycling, composting, et cetera.

Senator Santiago. How long is their term of office?

Senator Leviste. The term of office of the private sector representatives would also be the same as the term of office of the members of the National Council.

Senator Santiago. Will they be entitled to any remuneration?

Senator Leviste. Per diems and allowances are all that will be provided for the members of the Council.

Senator Santiago. Still on page 7, line 8. This provision says that the Bureau, referring to EMB, shall provide secretariat services for the National Council.

As a premise and preparation for my question, I would like to refer to Executive Order No. 292, also known as the Administrative Code of 1987. It provides:

The Enviromental Bureau shall have the following functions:

(a) Recommend possible legislation, policies and programs for enviromental management and pollution control;

(d) Recommend rules and regulations for enviromental impact assessments and provide technical assistance for their implementation and monitoring;

(e) Formulate rules and regulations for the proper disposition of solid waste, toxic and hazardous substances;

(f) Advise the Secretary in the legal aspects of environmental management and pollution control and assist in the conduct of public hearings in pollution cases;

(h) Coordinate the interagency committees that may be created for the preparation of the state of the Philippine environment report and the national conservation strategy;

(j) Assist the Secretary and the regional officers by providing technical assistance in the implementation of environmental and pollution laws;

(k) Provide scientific assistance to the regional offices in the conduct of environmental research programs.

Not only that. The EMB also provides technical, administrative and secretariat support to the Task Force on Manila Bay Rehabilitation. It also serves as the secretariat of the Pollution Adjudication Board.

If I might be allowed to make an observation, this is no wonder the EMB cannot fully concentrate on its mandated functions since it has to cater to the secretarial needs of a number of task forces and boards.

Would it not be logical to suggest that we should either upgrade the EMB with enough power and authority to focus on our solid waste problem? Or, on the other hand, downgrade it so that it can become the secretarial pool that it seems to have become?

Senator Leviste. In this bill, Mr. President, the EMB is given the responsibility of acting as a secretariat, because we believe that the DENR should be

the lead agency for the implementation of solid waste management framework or policies.

Senator Santiago. If that is the intent, considering that I have already read from the Administrative Code the no less than seven major functions of the EMB and indicated as well the secretarial services that it has been tasked to provide for various other agencies, is there an effort in this bill to clothe the EMB with sufficient power and authority so that it can focus on the solid waste problem?

Senator Leviste. Mr. President, the members of the Council who are supposed to be experts in solid waste management will have extensive consultation and coordination with the EMB which is designated to be the secretariat for the implementation of the functions of the Council.

Senator Santiago. In the course of drafting this bill, was the opinion of the EMB officials ever solicited?

Senator Leviste. Yes, Mr. President. In fact, they were present in every hearing and in every technical working group meeting.

Senator Santiago. And do they agree that they shall perform secretariat functions for the National Council?

Senator Leviste. Yes, Mr. President. It was also upon their suggestion that the EMB perform such functions.

Senator Santiago. Then in that case, I shall think very seriously this evening about a potential bill to downgrade the EMB into a secretarial pool considering the number of agencies that it is already servicing in this manner. I just do not see my way clear as a lawyer on how it can possibly focus on the solid waste problem.

I would like now to proceed to page 8, lines 7 to 9, which provides that the National Council shall study, review and recommend the following:

ii) Criteria and guidelines for siting, design, operation and maintenance of solid waste management facilities.

My question is: As it is not included in the definition of terms, what is a "solid waste management facility"?

Senator Leviste. A "solid waste management facility" is an area where solid wastes are disposed of, and "solid waste" has been adequately defined in this bill. This would include sanitary landfills as well as the open dumpsites which are utilized in many areas.

Senator Santiago. If a person, a citizen digs a hole in his backyard, would that qualify as a "solid waste management facility" since it would, as I view it, under the definition that has just been furnished?

Senator Leviste. No, Mr. President. It is obvious that if a child or a person digs a hole in his backyard and just dumps a small piece of solid waste there, it would not be considered a facility, because a facility would be an area where there would be certain methods used in dumping and collection. There would be communities which will be the source of the solid waste, which will be dumping those solid wastes into that facility.

Senator Santiago. In light of that comment, would it be comprehensible to suggest that a "solid waste management facility" should be defined as referring to any resource recovery system or component thereof; any system, program or facility for resource conservation; any facility for the collection, source, separation, storage, transportation, transfer, processing, treatment or disposal of solid wastes?

This is the definition found in the United States Solid Waste Disposal Act.

Senator Leviste. That is well-defined. The sponsor would accept that during the period of amendments, if the Senator so wishes.

Senator Santiago. Please allow me to proceed to page 10, Section 8, lines 6 to 20. This is the provision which mandates the National Ecology Center to provide consulting, information, training, and networking services for the implementation of the provision of this Act.

In this regard, it shall perform the following functions:

a) Facilitate training and education in recycling;

b) Establish and manage a recycling information data base that links waste generators and recyclers and is accessible to other sectors as well;

c) Provide or facilitate expert assistance in pilot modeling of recycling facilities; and

d) Develop, test, and disseminate model waste minimization and reduction auditing procedures for evaluating options.

May I please raise this question: Why is there an overemphasis on recycling when there are other practical applications of environmentally sound techniques of waste minimization such as resource conservation, segregation at source, resource recovery, reuse and composting?

I am raising this question because there is a genuine fear in my mind that this provision may have been sourced only from the fact that recycling is a fast-

growing industry, and not only that it is controlled by a few technical groups.

Senator Leviste. Mr. President, I agree with the lady Senator that there are other ways of minimizing wastes and segregation at source. Waste minimization and reuse are also mentioned many times over in this bill.

However, this National Ecology Center will also be concerned with the establishment and management of a recycling center and a recycling information data base. We believe that recycling is a fast-growing industry and that it could also provide a source of livelihood for many unemployed persons. And this, in fact, could also address the concerns of people like the *magbobote*, the vendors and the people who rely on buying used bottles, cans, et cetera, even newspapers as their form of livelihood. And this was included as a function of the National Ecology Center based on the consultations conducted by the study and the technical working group.

Senator Santiago. In trying to prevent a monopoly or an exclusivist control of the recycling industry, may I ask how many companies at present are engaged in recycling and registered to be so engaged?

Senator Leviste. We can provide that information to the distinguished Senator, but it is not available to us at the moment, Mr. President.

Senator Santiago. Still on page 10, lines 21 to 29, the provision reads:

To this end, the National Ecology Center shall be headed by a Director who shall be appointed from among the officers and members of the National Council for a term of three (3) years. It shall maintain a multi-sectoral, multi-disciplinary pool of experts ... who shall be screened according to qualifications set by the National Council.

My first question is: Is the three-year term of the director a fixed term? If it is a fixed term, what if, for example, the president of the League of Governors is appointed as director in 2000 but his term as governor ends in 2001, and either he loses in the elections or he is prohibited from running, can he still continue as director of the National Ecology Center? If he can still continue as director, would he not be a lame-duck director?

So the first of the series of questions is: Is the three-year term of the director a fixed term?

Senator Leviste. It is a fixed term, Mr. President, but it is not person-specific. Meaning, that the person appointed would be appointed because of the position he holds.

Senator Santiago. May I have an answer to the hypothetical question: If it is a fixed term, what if, for example, the president of the League of Governors is appointed as director in 2000 but his term as governor ends in 2001, and either he loses in the elections or he is prohibited from running again for governor, can he still continue as director of the National Ecology Center?

Senator Leviste. Whoever is the president of the League of Governors, Mr. President, would continue the term. If that person is prohibited from running for reelection after one year serving as a member of the Council, then the succeeding president of the League of Governors would take over for the two remaining years of the term of that member of the Council.

Senator Santiago. So it is possible that the director might serve only for a year if that is the case. Is that the contemplation?

Senator Leviste. Yes, Mr. President, under that hypothetical situation.

Senator Santiago. I wonder if we should not revisit that provision. But in the meantime, may I ask still on this provision. How many experts will compose the proposed multisectoral and multidisciplinary pool of experts? Who will appoint them--the director of the Center or the National Council? Will they be given any remuneration?

The first question in the series is: How many experts?

Senator Leviste. The specific number of pool of experts is not defined in the bill, Mr. President, but it will be under the head or the director assigned to the National Ecology Center. The Director of the National Ecology Center shall determine the number of professionals available to assist him or her in the exercise of his or her functions as head of the Center.

Senator Santiago. Let me leave that aside for the moment and go to the more important point.

Will they be given any remuneration? For if they are going to be paid, then obviously it is extremely risky to leave in the hands of one person the appointment of an open-ended number of experts.

Senator Leviste. We agree, Mr. President, that this must be specified in the bill. It was the intent of the bill to leave it to the director to determine the number of experts.

However, it was also envisioned that, knowing the difficulty in trying to get resources to implement this bill, they were not supposed to be paid hefty sums but only allowances as consultants or a pool of experts to implement the programs of solid waste management.

Senator Santiago. And when is the line to be drawn between a hefty sum on the one hand and an allowance on the other hand since we are giving, in effect, an open-ended power to a single person, a power not even given to a senator?

Senator Leviste. We can specify the number of experts and maybe specify the kind of allowance or per diem that the members of the National Ecology Center would be provided with during the period of amendments.

Senator Santiago. Yes, please. I will move on to page 11, lines 2 to 6.

This provides for the establishment of a Barangay Solid Waste Management Council for the purpose of preparing and implementing local solid waste action plans in accordance with the provisions of this Act.

The section goes on to enumerate the composition of the provincial council and the municipal or city council.

But the bill is silent as to who shall be the members of the barangay council.

May I know if this omission is intentional?

Senator Leviste. This omission is not intentional, Mr. President. The barangay councils will also consist of the same number of members as the other local councils in the municipal and city level.

Senator Santiago. And who shall compose the council at the barangay level, assuming that the number is already specified if it is aggregated to the other councils mentioned in the same provision?

Senator Leviste. The barangay captain, the local health officer, and the environment officer in the barangay, Mr. President. The same concept, whether from the provincial, city, municipal and the barangay in terms of number and in terms of areas of concern of the members of the council, will consist the councils up to the barangay level.

Senator Santiago. I will have to run through the other pages so that I will not be accused of monopolizing too much time.

So I would like to go to page 12, Section 11, lines 5 to 8.

This is the provision which states: "Within three (3) months from the establishment of the National Council, an integrated national and local solid waste management framework program shall be promulgated."

This is my point: In the Solid Waste Disposal Act of the United States from which many provisions of this proposed bill were admittedly lifted, the Administrator of the Environmental Protection Agency, the lead agency tasked with carrying out the provisions of the Solid Waste Disposal Act, is given 18 months to promulgate an Integrated Waste Management Plan.

In the proposed bill, we are asking the National Council to promulgate an Integrated National and Local Solid Waste Management Framework Program within only three months.

As early as 1969 or 30 years ago, the national government already recognized the growing garbage crisis in the metropolis. It conducted studies to identify suitable means to improve the solid waste management situation. Several master plans were made by the defunct Metro Manila Commission and the Metro Manila Authority, the precursors of the MMDA, but none of these were ever fully implemented because of lack of money and political will. The changing of officials rendered obsolete all studies commissioned by their predecessors.

Now, in this bill, we are again asking still another entity composed of directors who are temporarily attached to the Commission and who have other pressing concerns in their own departments to come up within three months with a comprehensive solution to an at least 30-year old problem. I doubt very much whether the Commission can promulgate such a technically complicated program in such a short time. Is there not a need to set a more realistic timetable for the National Council so that it can produce

a more thorough and workable management plan than this period of three months?

Senator Leviste. Yes, Mr. President. That suggestion is well-taken. However, may I clarify or explain why this three-month period was given for the establishment of the Council. It was felt during the committee hearings that the garbage problem has come to be in a crisis proportion. It was also during that time that the people in Rizal and Antipolo were already barricading the area to prevent the MMDA collection trucks from disposing garbage in that area. Therefore, we felt that there was a need to enact a law that would address the urgency of the crisis situation. However, we agree that such a complicated issue or problem may not be solved in a span of three months. Therefore we will be open to any amendments that the distinguished lady Senator would suggest during the period of amendments.

Senator Santiago. On page 15, Section 15, lines 28 to 31, the provision reads: "All cities and municipalities are hereby mandated to establish common waste disposal facilities to be situated in a location agreed upon by them..." But the bill is silent as to provinces. Therefore, the obvious question: Can provinces establish common waste disposal facilities in locations agreed upon by them?

Senator Leviste. Yes, that would be acceptable, Mr. President.

Senator Santiago. The bill, therefore, should say so.

At this juncture, the Senate President relinquished the Chair to Senator Flavio.

On page 18, Section 21(a), lines 20 to 24, this provision prohibits littering or throwing garbage, filth or other waste matters in public places such as roads, sidewalks, canals, esteros, parks and establishments.

On page 19, lines 1 to 6, it penalizes the offender with a fine of not less than P300 but not more than P6,000 or imprisonment of not less than 15 days but not more than two years, or both, at the discretion of the court.

A simple question: Since the bill is silent, what is the definition of "garbage" and what is the definition of "filth"? I remember very clearly that a justice of the US Supreme Court wrote in his opinion, "What might be pornography to me might be poetry to you." So what is "garbage" and "filth" to the distinguished Sponsor?

Senator Leviste. Mr. President, "garbage" can be defined as ... A synonym of garbage could be refuse, something that is not needed by someone and therefore discards it or throws it away.

Senator Santiago. That sounds very much like a wife who has been discarded by a husband. [Laughter] Maybe we could tighten up the definition during the period of amendments, Mr. President.

My final question is on page 22, Section 28, line 1, it provides: "For the initial operating expenses of the National Council, the amount of Forty million pesos (P40,000,000.00) is hereby appropriated."

The question is: What were the parameters used by the committee to come up with the amount of P40 million? The amount of P40 million--it is obvious for a coordinating body like the Council--might be too much, especially when we identified that many laws passed by Congress have remained unfunded at this time. What were the parameters used by the committee?

Senator Leviste. Mr. President, the P40 million will be allocated for the creation of a National Council and the National Ecology Center. This would require the setting up of the National Ecology Center, at least a complete data base of all the waste disposal sites, the conduct of study and research that it could recommend to the local solid waste councils and the ecology centers.

Since the distinguished lady Senator mentioned that this is indeed a very complicated problem with complicated solutions, we believe that the initial P40 million allocation probably might not even be enough to solve this tremendous problem.

We came up with this amount during the committee hearings because of the need to create the councils, to come up with sufficient research data, and to establish local councils based on the recommendations of the National Council.

Senator Santiago. Mr. President, considering my own personal relationship to the crusade against corruption in this country, where I have been extremely lonely and many times have placed myself in extreme danger, I find the subject of garbage, filth and solid waste endlessly fascinating. But, unfortunately, time is passing by very quickly and we do not have the leisure that will afford me the means and the manner to ventilate all that I have to say about this particular species of God's creations. Therefore, I shall terminate my interpellation and I would like to thank the sponsor.

Senator Leviste. Mr. President, I would like to wholeheartedly thank the distinguished lady Senator for enlightening this neophyte sponsor on this very important piece of legislation. I must say that, personally, I have learned a lot from the very inspired and enlightened suggestions of the lady Senator and shall be more than willing to include them during the period of amendments.

The Presiding Officer [Sen. Flavier]. The Majority Leader is recognized.

Senator Drilon. Mr. President, Sen. Serge Osmena III wishes to take the Floor in this period of interpellations.

The Presiding Officer [Sen. Flavier]. Sen. Serge Osmena III is recognized.

Senator Osmena (S). Thank you, Mr. President.

Will the lady Senator yield for a few questions on her bill?

Senator Leviste. Yes, definitely, Mr. President, to the distinguished Senator from Cebu, the younger one.

Senator Osmena (S). Mr. President, let me just jump around a bit. I will not proceed in the same order that the distinguished Senator from Iloilo did.

Under Section 3 of Republic Act No. 7924, which created the MMDA, the MMDA was supposed to provide services relating to solid waste disposal and management including formulation and implementation of policies, et cetera. What will be the role of the MMDA under this bill?

Senator Leviste. Mr. President, the MMDA will continue to collect garbage, solid wastes from all the cities and municipalities in its area. It will continue to do so. It is envisioned in this bill that the Council will provide the framework, but the local government units will be responsible for implementing this on the local level. Therefore, the MMDA will continue to collect the garbage.

Senator Osmena (S). Is the MMDA considered a local government unit?

Senator Leviste. It is composed of local government units but it is an agency of government. So, it is not a local government unit but the members of the MMDA represent the local government units in that area.

Senator Osmena (S). What this representation is trying to pin down is that, yes, we do understand what the sponsor just said. But who would be responsible? Ultimately, there could be, under this law, some kind of overlapping or there may even be friction between the MMDA and the local government units.

Should we not, at least, try to define, for the sake of Metro Manilans, the role that MMDA will play and the role that the local governments will play under this solid waste management bill?

Senator Leviste. Mr. President, the MMDA is ably represented in the National Council. With the participation of the MMDA there, it could very well define policies which could affect other areas as well.

We believe that there would be no duplication of efforts because, as we said, presently the MMDA is charged only with the collection of garbage in the cities and municipalities covering its area and manages the landfill in San Mateo. In fact, the efforts of the MMDA will complement the role of a council, of which it is going to be a member of.

Senator Osmena (S). May I read to the lady Senator Section 7 of the proposed bill, entitled, "Local Government Units." It provides that the local government units shall be primarily responsible for the implementation and enforcement of the provisions of this Act within their respective jurisdiction. It goes on to the provincial, city, municipal and barangay governments and nowhere is MMDA mentioned.

Should there not be, at least, a paragraph here that says that for Metro Manila it is the MMDA that shall be responsible?

Senator Leviste. Yes, that could be considered, Mr. President. There should be no problem about that.

However, let me just look for the portion where the members of the Council are mentioned. The MMDA is mentioned as a member of the Council.

Senator Osmena (S). As a member of the Council, yes. The Council is merely engaged in policy-formulation, statement of principles, but the actual implementing agency would be the local government units.

Senator Leviste. The gentleman's point is well-taken, Mr. President. That could be included at the proper time.

Senator Osmena (S). On another point. Is the distinguished sponsor familiar with the clause called "extended producer responsibility"?

Senator Leviste. I am sorry, Mr. President. Is it extended...

Senator Osmena (S). Is the distinguished sponsor familiar with the concept of "extended producer responsibility"?

Senator Leviste. Would the gentleman, please, enlighten the sponsor?

Senator Osmena (S). Yes, Mr. President. It is an emerging principle which states that producers of goods avail a degree of responsibility for all the environmental impacts of their products.

As a matter of fact, Mr. President, I just read in one of the latest issues of--I am not sure if it was *Business Week*, *Fortune*, *Time* or *Newsweek*, that in the United States, the business establishments have already come out with biodegradable food packages taking the place of Styrofoam.

If we are to go backwards from the garbage dump to the origin of the waste or the producer of the waste, we will find out that we would end up with the manufacturers of food, tin cans, soft drink bottles, *et cetera*.

Perhaps the distinguished sponsor would like to consider including this principle in the bill to encourage commercial and industrial establishments to improve their environmental performance by adopting cleaner production practices and waste reduction schemes.

Senator Leviste. Yes, Mr. President. That, indeed, is a very laudable principle and must be incorporated here.

If I may also cite Section 20 on page 18, without mentioning that specific phrase or principle which the distinguished gentleman has said, this section specifies the role that business and industry must play, and encourages the industrial and business sector to introduce, develop and adopt innovative processes that recycle and reuse materials, conserve raw materials and energy, reduce waste, and prevent pollution, and to undertake community activities to promote effective solid waste management.

But if the gentleman wishes to include a specific provision to encourage this principle, I think that would be a very welcome addition.

Senator Osmeña (S). Yes, I was hoping that maybe the technical working group would study ways and means where the producer, for example, of soda pop bottles would take back its bottles, would be forced to take back its nonbiodegradable bottles, whether these be plastic bottles or aluminum cans. There are examples in other countries. I have not actually had time to look into it. Perhaps the TWG would be better-qualified to do this.

Senator Leviste. Yes, Mr. President. That is a good suggestion. And if I may also cite certain incentives for the recycling industry on page 21, it also includes on lines 23(i) and 25(ii) the reduction of waste, segregation, collection, and recycling of waste materials; and the development and adaptation of technologies for degradable packaging materials and their use whenever economically feasible.

I believe that it is the intent of these two provisions that companies or manufacturers of packaging materials try to produce packaging materials which are reusable, recyclable and would not contribute to the already polluted environment.

Senator Osmeña (S). What carrot or what stick would the lady Senator employ here in the bill? Would the sponsor be giving powers to the Council, first, to set the standards, to set the policy, to set the rules and regulations for producers and manufacturers and then, second, to penalize them if the latter do not follow?

Senator Leviste. These are encouraged by the Council. It is like a new culture. These are policies which will be instituted by the National Council and hopefully will be brought down to the barangay level. There will even be an institutionalization of a rewards system to recognize outstanding and innovative applications of source-reduction strategies and techniques in business, in the academe, and in the national and local levels. It is, therefore, the intent of this bill. It is hoped that the importance of recycling in both business and industry would be recognized.

Senator Osmeña (S). Mr. President, I am trying to ascertain how a businessman who is making money, utilizing a certain type of packaging, could, out of the goodness of his heart, be encouraged to spend more money to repackage whatever product he is producing unless there is some penalty involved. I am not quite sure whether the distinguished sponsor realizes that it is not quite easy to jawbone the business sector into doing what is environmentally sound and safe.

So, could the TWG perhaps come up with tighter policies whereby by a given date....Let me go back, Mr. President.

In the United States, I remember in the 60s, there was a mandate given by some government agency that by x number of years, the average gasoline consumption of any automobile manufacturing company, whether it is the General Motors or the Ford or the Chrysler or, at that time, the American Motors, had to average a certain consumption level, like 15 miles to a gallon by 1962, 20 miles to a gallon by 1968, et cetera. Are we setting the standards in this bill?

Senator Leviste. There are no specific standards, Mr. President. What we try to do here is to utilize a positive rewards system rather than penalize those who do not follow. That is contained in Section 27, *Incentives for the Recycling Industry*. But if the distinguished gentleman wishes to include stiffer penalties, we could probably consider that at the appropriate time. What we wanted to inculcate in the business and industrial sector here is for them to recognize the rewards system which will be available should they comply with the provisions of this measure.

Senator Osmeña (S). All right. We know that there are businesses and industries that are also engaged in the recycling of wastes. They buy secondhand computers from the United States, for example, ship them over here, recondition them, and sell them. Of course, this brings down our cost of buying desktops tremendously. I was in Dagupan and Baguio the other day and I saw desktops selling for P10,000.

Is there a special incentive, any additional incentive in the bill that would reward these people with simplified procedures, for example, for importation of equipment and spare parts, especially those industries that have been registered with the DTI and issued, say, an environmental compliance certificate already?

Senator Leviste. Mr. President, I do not think, to my mind, the computers or that kind of business mentioned by the distinguished gentleman would fall under solid waste. Because if we are to limit ourselves to the definition of solid waste in the bill, it shall refer to domestic and municipal refuse, animal waste, and crop residues.

Senator Osmeña (S). All right. Then let me rephrase my question. There are solid wastes that come in or what is legally defined even by the Basel Convention as solid wastes, even toxic and hazardous wastes. Yet, these so-called wastes can be useful to society economically, if properly recycled, because they

come up with products that are much cheaper than, say, brand-new products.

At the proper time, would the sponsor consider an amendment that would also give incentives to this type of recyclers?

Senator Leviste. Yes, definitely, Mr. President. Since there is already a provision on incentives for the recycling industry, perhaps we could also cite or include a provision on businesses which import wastes that could be used or recycled and that could be beneficial to other sectors.

Senator Osmeña (S). Therefore, "waste" should not refer only to domestic regenerated waste because there are "wastes" that are also imported wastes, institutional wastes which are brought in for recycling purposes. Maybe we would like to also revisit the definition of solid waste on page 5 of the bill.

Senator Leviste. That would be acceptable at the proper time, Mr. President.

Senator Osmeña (S). Mr. President, in Section 9, the definition of the composition of Local Solid Waste Management Councils reads as follows: "Each local Solid Waste Management Council may be composed of the following:" Why did the distinguished sponsor use the word "may" instead of the word "shall"?

Senator Leviste. Because the Chairman of the National Council and the director in charge of the National Ecology Center, Mr. President, would be consulted as to the proper composition of the Local Solid Waste Management Councils. I believe that was the reason why this word was used.

Senator Osmeña (S). In other words, if there is a city mayor who does not want to serve on the Solid Waste Management Council, he may avoid this chore or his task or his responsibility?

Senator Leviste. No, Mr. President, it is mandatory that all the city and municipal mayors head the Local Solid Waste Management Councils.

Senator Osmeña (S). Maybe at the proper time this word "may" should be changed to the word "shall."

Senator Leviste. Yes, Mr. President.

Senator Osmeña (S). I would like to thank the lady Senator for that, Mr. President.

Now, in Section 13, which is entitled "*National Solid Waste Information Database*," the section provides that solid waste management councils shall establish an information database on solid waste generation and management techniques.

Senator Leviste. Mr. President, may I have the...

Senator Osmeña (S). Section 13, on *National Solid Waste Information Database*. This is on the database.

Senator Leviste. Yes, Mr. President.

Senator Osmeña (S). What is the difference between an information database to be established by locals and that to be established by the National Ecology Center?

Senator Leviste. The local solid waste database would have an inventory of the local dumpsites in that area while the National Council would include information on the landfills in the areas which are perhaps jointly used by provinces and municipalities. It could even include the facilities being used, for example, by Metro Manila where their garbage is collected by the MMDA.

Senator Osmeña (S). These are just records. Did the distinguished lady Senator envision the database to be something other than administrative records?

Senator Leviste. This database would include the waste generated by persons, establishments, both

commercial and industrial. So this would include data from those persons or establishments generating the waste as well as the process of waste collection and waste disposal and the facilities which are presently available and which could be developed to receive this municipal refuse.

We hope that through the creation and development of this database, it would be easier for the local government units to implement a national framework of solid waste management.

Senator Osmeña (S). Mr. President, perhaps we should be further enlightened on this. Would every person be monitored as to his amount of waste? We cannot even do this at the residential level where we probably have five to 10 persons residing there. How could every person's waste be monitored?

Senator Leviste. JICA study was conducted, let us say, in 19...

Senator Osmeña (S). I would be very embarrassed if somebody monitored my waste, Mr. President.

Senator Leviste. More or less, a study or a survey of an estimate of the number of tons of solid waste per day. We must at least have an idea of an estimated number of tons, for example, generated by Metro Manila. A waste amount and composition survey was already conducted several times by JICA in cooperation with the MMDA--to analyze solid waste production in Metro Manila. In fact, in 1997, they were able to come up with such figures as the rate of grams per person per day as derived from the survey. In short, this is the kind of information which will be generated by the creation of this information data base.

As the population in the highly urbanized centers increases, of course, naturally and consequently, the amount of solid waste generated will increase. This also has to be monitored so that we could develop the proper

waste disposal facilities which will be necessary to receive such increase in waste.

Senator Osmeña (S). Thank you, Mr. President.

Section 8 also mentions recycling and resource recovery. Is there a difference between recycling and resource recovery? Resource recovery is mentioned under Section 13, and recycling is also mentioned under Section 8, with referral to a recycling information data base.

Senator Leviste. Maybe we should refer to the definition of terms on page 4. It says:

N) Recycling - shall refer to the treating of used or waste materials through a process of making them suitable for beneficial use and for other purposes, and includes any process by which solid waste materials are transformed into new products in such a manner that the original products may lose their identity, and which may be used as raw materials for the production of other goods or services: *Provided, That the collection, segregation and reuse of previously used packaging materials shall be deemed recycling under this Act;*

O) Resource Recovery - shall refer to technical and other practices whereby materials or energy for production are obtained from waste products.

Senator Osmeña (S). It sounds to me that recycling and resource recovery seem to cover the same activity. Is it necessary to have these two different terminologies for practically the same activity?

Senator Leviste. Yes, Mr. President. For example, composting where there are other uses that can be extracted from the recovery of that resource.

Senator Osmeña (S). Is it composting resource recovery or recycling?

Senator Leviste. To my mind, it is resource recovery and not recycling.

Senator Osmeña (S). It is resource recovery.

Senator Leviste. I believe so, Mr. President.

Senator Osmeña (S). It says: "whereby materials or energy for production are obtained". And it would not fall under recycling.

Senator Leviste. I believe so, Mr. President.

Senator Osmeña (S). If I had a broiler farm and I have, say, 10,000 or 20,000 heads of chicken, and I am able to recover their waste and use their waste for fertilizer or for producing methane gas, would that be recycling or resource recovery?

Senator Leviste. To my mind, that would be resource recovery, Mr. President.

Senator Osmeña (S). That would be resource recovery.

Senator Leviste. Yes, Mr. President.

Senator Osmeña (S). But there are rewards for both. Those who recycle and those who engage in resource recovery are rewarded in the same manner in this bill.

Senator Leviste. Yes, Mr. President.

SUSPENSION OF SESSION

Senator Osmeña (S). I move that we suspend the session for one minute, Mr. President.

The Presiding Officer [Sen. Flavio]. Is there any objection? [Silence] There being none, the session is suspended for one minute.

It was 6:09 p.m.

RESUMPTION OF SESSION

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

The Presiding Officer [Sen. Flavien]. The session is resumed.

Senator Osmeña is recognized.

Senator Osmeña (S). Mr. President, in another bill which fell under the same topic, there was a whole chapter on recycling. Recyclable material, mandatory participation in recycling were not included in the new bill. If I may be allowed to read from Senate Bill No. 184, this section deals with recyclable materials, determining the cost and collection of the sale of a recyclable material, et cetera, and the cost of collection and disposal of a recyclable material. In other words, this provision could be supplementary to this bill.

May we know why Section 17 of Senate Bill No. 184 was not included in the new bill?

Senator Leviste. I am sorry, Mr. President. I need to read a copy of that bill. May we have the title of the bill, please?

SUSPENSION OF SESSION

Senator Osmeña (S). I move that we suspend the session for one minute, Mr. President.

The Presiding Officer [Sen. Flavien]. The session is suspended for one minute, if there is no objection. *{There was none.}*

It was 6:11 p.m.

RESUMPTION OF SESSION

At 6:11 p.m., the session was resumed.

The Presiding Officer [Sen. Flavier]. The session is resumed.

Senator Leviste is recognized.

Senator Leviste. May I request the distinguished gentleman to please read the section which he says was deleted?

Senator Osmena (S). The entire Chapter 3 on recycling. But Section 17 reads:

Recyclable Material.— In determining what materials are recyclable, the Department through the bureau, shall consider the following factors:

- a) the cost and collection and sale of a recyclable material, including all costs and savings associated with the collection of a recyclable material. This shall be calculated by considering the collector's cost from the time the material is source-separated and leaves the site of the generator until it is first sold or transferred to the person who recycles it;
- b) The cost of collection and disposal of material as solid waste which shall be calculated by using the total costs of collection and disposal. Costs shall include fees charged, taxes levied or subsidies granted to collect and to dispose of solid waste. Costs shall also include, but are limited to, the costs to comply with applicable statutes, rules, and permit conditions;

- c) Any measurable savings to the collector resulting from making a material available for recycling as opposed to disposal; and
- d) The amount and value of any source-separated material that is collected or received as part of a recycling requirement.

What I think we are trying to say here is that this encourages people to recycle.

Senator Leviste. Yes, Mr. President. That was not specified in the bill but not totally eliminated. Because on page 18, Section 3, line 20...I am sorry. Section 3.

Senator Osmena (S). Section 3 of the consolidated bill?

Senator Leviste. Yes, Mr. President. It would refer to portions of that Section 17 but maybe in more general terms. Therefore, we would be willing to incorporate portions of Section 17 into this bill.

Senator Osmena (S). Section 3 in the lady Senator's bill refers to definition of terms. I do not know how definition of terms could....

Senator Leviste. Page 3, I am sorry. Mr. President, that is page 3.

Senator Osmena (S). That is still only a definition.

Senator Leviste. Page 3, on Recyclable Material? Recyclable materials shall refer to any materials that can be collected and sold for recycling. It would also refer to....

Senator Osmena (S). Page 3, Mr. President, only defines «Recyclable Material.» It shall refer to any material that can be collected or sold at net cost.

Section 17 of Senate Bill No. 184 goes further. It determines what materials are recyclable and what the Bureau should consider as factors in determining if the materials are recyclable. It just fine-tunes the economic cost of recycling. Because if there is no benefit in recycling, Mr. President, people will not do it. There must be a net economic benefit to recycling.

Senator Leviste. Mr. President, in the Definition of Terms, «recycling» and «recyclable materials» were simply defined and the net economic cost was not cited. We will be willing to include that provision to fine-tune this bill at the appropriate time.

Senator Osmeña (S). Then we go to Section 18 of Senate Bill No. 184, Mr. President. This is the section that deals with *Mandatory Participation in Recycling*.

Is there a similar section in the substitute bill which covers *Mandatory Participation in Recycling*?

Senator Leviste. Under this bill, Mr. President, recycling is encouraged by the Council, and the creation of the National Ecology Center would create a reward system for those in the recycling industry. This will also be implemented in the local level through the local solid waste councils and the ecology centers.

Senator Osmeña (S). Earlier, Mr. President, I asked if we should not tighten up on the bill and make it also a requirement for people to do certain things that would be in keeping with environmental safety, health and other things that are needed to make our world a little bit more enjoyable to live in.

Now, allow me to read Section 18 on *Mandatory Participation in Recycling*.

- (a) The Department may require one or more classes of solid waste generators to source-separate identified recyclable material from other solid waste and make the material available for recycling.

And it goes on. It covers almost three-fourths of a page, Mr. President. In other words, what this representation is trying to say is, if we are going to only utilize the "nice guy" approach in the Integrated Solid Waste Management bill, perhaps we might not meet with the type or the level of success that the distinguished lady Senator and I hope this bill would bring about.

Therefore, this representation would like to inquire from the distinguished sponsor if she might find time to study Section 18, and during the period of amendments, consider a new section which will bring Section 18 of Senate Bill No. 184 into the substitute bill.

Senator Leviste. Yes, Mr. President. As I mentioned earlier, on page 21, Section 27, we took the positive approach in encouraging business and industry to involve themselves in the recycling industry. And if the gentleman suggests that we include stiffer requirements, sanctions or penalties, then that could be considered and therefore that section of his original bill could be integrated into this bill after the *Incentives for the Recycling Industry*. That suggestion is well-taken.

Senator Osmeña (S). Thank you, Mr. President. And the last issue: In Section 22, again, of Senate Bill No. 184--this is the section which covers *Prohibited Acts*--the five subsections here were not again considered in the substitute bill, and I believe that they would be supplementary to the prohibited acts enumerated in the substitute bill. Like, for example, subsection (a) of Section 22 covers the taking without consent of the owner or generator of recyclable material set out to be collected by a person authorized or a collection service. This means the stealing of recyclable material. Because

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recyclable material at a certain point begins to enjoy economic value.

Another one would be the removal of recyclable material from a container box, collection vehicle, depot or other receptacle. Probably, this means receptacle for the accumulation or storage of recyclable material.

In the United States again, Mr. President, there were large bins there where one could dispose of plastic bottles in one, and then the aluminum cans in the other. I mean, stealing from these should be considered a crime under this bill.

Subsection (c)--the mixing of source-separated recyclable material with other solid waste.

Subsection (d)--the importation of consumer product packages and materials other than those indicated as recyclable, if we reach that point later on.

And subsection (e)--the use of the terms "recyclable" and "with recycled content" and the like on products and packages without complying with the standards set by the Department.

As we all know, the labeling of recycled material has tended to encourage people to patronize those products that says "recycled paper" or "recycled aluminum cans."

We also want to make sure that nobody falsely uses this label in order to make his products more salable.

Perhaps, if the distinguished sponsor would consider this, we will be more than pleased to introduce this as an addition in the period of amendments.

Senator Leviste. Yes, definitely, Mr. President. Those points sound very interesting. These will be studied and are well-taken and could be incorporated for a more detailed provision on sanctions or penalties under

the bill. Therefore, these will be incorporated at the proper time.

Senator Osmeña (S). Mr. President, time is late and I would like to thank the distinguished sponsor for her very honest and candid responses to our questions.

Thank you.

Senator Leviste. Thank you, Mr. President, for the inputs of the distinguished Senator.

The Presiding Officer [Sen. Flavio]. The Majority Leader is recognized.

Senator Drilon. Mr. President, if the sponsor still has some energy, I would like to ask a few questions if only to tighten certain provisions. I am in full support of this bill. So if the lady Senator would yield for a few more questions.

Senator Leviste. Yes, definitely, to the Majority Leader.

Senator Drilon. Just for clarification. On page 2, line 24, Mr. President, the word «Fund» is defined as referring to the Solid Waste Management Fund.

May I know, Mr. President, where in the bill is the Solid Waste Management Fund established and for what purpose? Because I could not find where the Solid Waste Management Fund is, although «Fund» is defined as referring to Solid Waste Management Fund.

Senator Leviste. On page 20, Section 26, line 27, Mr. President. It says:

Capital Fund for Local Solid Waste Management Initiatives. - Government financial institutions, including the Land Bank of the Philippines, and private banks, whether in an independent capacity or with support from other private funding institutions, shall be

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encouraged to set aside seed capital for this purpose and shall serve as the depositories of the Capital Fund. They shall be responsible for the evaluation and approval of loans and/or grants to local government units and to private solid waste management cooperatives and associations accredited by the National Council.

Senator Drilon. Mr. President, I notice that in the section just read by the Sponsor, specifically on page 21, line 2, the term "Capital Fund" is an initial capital which means it is a distinct and separate fund. It is something that is really established as a capital fund. Is this term "Capital Fund" on page 21 the same as the "Fund" found on page 2, line 24? Because line 24 of page 2 says "Funds--shall refer to Solid Waste Management Fund," and line 21 says "Capital Fund." Are these one and the same?

Senator Leviste. The observation is correct, Mr. President. Yes. I would assume that line 24(e) on "Fund" refers to the same "Capital Fund" for local solid waste management. I believe we must fine-tune this a little to make it... Yes, we must use the word "Fund" as identified on page 2. We can therefore delete it at the proper time since this refers to the same Fund as defined in the list.

Senator Drilon. So what will we delete, Mr. President? Is it the definition of "Fund" on page 2, line 24, or the word "Capital" on page 21, line 2?

Senator Leviste. The word "Capital" can be deleted at the proper time for consistency, Mr. President.

Senator Drilon. On page 20, line 27, it also refers to the "Capital Fund."

Senator Leviste. Yes, Mr. President.

Senator Drilon. On page 21, it mandates a seed capital. Is the Solid Waste Management Fund a seed capital?

Senator Leviste. Yes, Mr. President. The Solid Waste Management Fund coming from the government financial institutions will form the seed capital for the fund needed for these solid waste initiatives.

Senator Drilon. Maybe at the appropriate time, the amendments can be introduced to clarify all of these concepts.

Senator Leviste. Yes, Mr. President. We can fine-tune the definitions to make them more consistent.

Senator Drilon. Earlier, Mr. President, during the interpellation of Sen. Miriam Defensor-Santiago, the good sponsor mentioned that the Environmental Management Bureau will act as the Secretariat of the National Solid Waste Management Council as provided on page 7, lines 8 and 9.

The drift that I got from the answers of the sponsor to the questions of Senator Santiago was that the Bureau shall perform purely secretariat services. Is that correct?

Senator Leviste. Yes, Mr. President. The EMB will perform the services of a secretariat, but the EMB is also represented as a member of the Council along with the other members who are directors of the various government agencies and the private sector. May I know exactly what is the contemplation of the distinguished sponsor as far as the role of the EMB is concerned in this bill?

Senator Leviste. Mr. President, the EMB is envisioned to be the secretariat of this Council which will be headed by a full-time chairperson who will be appointed by the President. The other members of the Council will come from the various government agencies as well as from the private sectors.

However, the lead agency, since this is an environmental measure, will be the DENR. We believe that

it is just proper and suitable that the Environment Management Bureau, which is tasked with the problem of managing our solid wastes and creating policies and programs, will provide the secretariat services.

Senator Drilon. But, Mr. President, that is not the drift of Section 4 on page 5. If we read Section 4, the Environmental Management Bureau is more than a secretariat. If I may read:

SEC. 4. *Lead Agency.* ■ The Department, through the Environmental Management Bureau (EMB), hereinafter referred to as the Bureau, in coordination with the Department of Education, Culture and Sports and the Department of Interior and Local Government, shall be responsible for the implementation and enforcement of the provisions of this Act.

Mr. President, under this provision, I would like to think that the EMB would have more than secretariat functions.

Senator Leviste. Mr. President, if I may clarify the functions of the DENR-EMB vis-à-vis the National Council. The DENR-EMB shall develop and adopt this integrated national framework program which will contain the national policies, standards, criteria and the procedures for solid waste management and shall support and assist the activities of the councils, and act as the secretariat of the National Council.

The implementation of this whole policy framework will be made actually on the local level. Since we know that solid waste is a local problem, which simply needs a framework at the national level, the implementation will be made based on the framework and the programs and policies which will be instituted by the Council of which the EMB is a member and of which the EMB is a secretariat. But the implementation of the policies and programs will be done by the local government units which will have their own local solid waste councils and their ecology centers.

Senator Drilon. In that case, Mr. President, maybe Section 4 should be reviewed and amended accordingly, so that the function of the EMB is clearly defined in the manner that the good sponsor has mentioned.

I came from the bureaucracy, from the Executive department. When the bureaucracy would see the phrase "shall be responsible for the implementation and enforcement of the provisions of this Act," I can assure the good sponsor that it will start hiring an army of implementors and enforcers.

Senator Leviste. Maybe, we could refine and eventually define the wordings, Mr. President. Because the way it is presented here,--the gentleman is correct--the Department, through the EMB... However, it specifies here "in coordination with the Department of Education, Culture and Sports and the Department of Interior and Local Government shall be responsible for the implementation and enforcement of the provisions of this Act".

Senator Drilon. No, it is the Department, through the EMB, which shall be responsible for the implementation...

Senator Leviste. In coordination.

Senator Drilon. Just coordination. In the bureaucracy, when we say "coordination," we tell them, "I will coordinate with you and ignore the rest."

I am sure that the lady Senator's staff who was with me in the Department of Labor and Employment would know what I am talking about. That is exactly how the bureaucracy reacts to words like "coordination," et cetera. When they see the phrase "shall be responsible for the implementation and enforcement of the provisions of this Act" I can assure the lady Senator that these people are jealous of their authority and will give literal and full meaning to the provisions of the law. Therefore, as I have suggested, maybe the committee can

revisit this provision and define exactly what the committee intends the EMB to do.

Senator Leviste. Indeed, we will, Mr. President. As I have conveyed earlier, the role of the EMB will be as member of the Council and as a secretariat. Therefore, as suggested, we will revisit this provision and specify and define the provision that will limit the role of the EMB.

Senator Drilon. Mr. President, the sponsor may also wish to review the Administrative Code as far as the functions of the EMB are concerned. I have not done it myself but I am almost certain that there are functions of the EMB found in the Administrative Code which, if not touched, repealed or amended, may be a source of confusion among agencies in charge of implementing this particular Act.

Senator Leviste. Mr. President, I wish to thank the gentleman for that. We will restudy and redefine the role of the EMB and its wordings.

Senator Drilon. With that, Mr. President, we would expect that the committee will take a second look at the powers and functions of the Bureau as indicated on lines 16 up to 29 because, again, this is not merely secretarial functions. For example, the formulation of action plans by the Bureau would be in conflict with the authority of the National Council which is also to develop action plans.

If we will note, Mr. President, on page 5, line 16 to 20, the Bureau is given the authority to establish standards, criteria and guidelines for the formulation and implementation of national and local solid waste management framework programs and action plans with emphasis on waste minimization strategies and the enhancement of the opportunity to recycle.

Almost the same general power is also given to the National Council. So, this must be clarified, if I may suggest.

Senator Leviste. Yes, Mr. President. Actually, it is the National Council that will establish the standards, criteria and these guidelines. This can be reworded by stating that the National Council is empowered to do these roles, and it has to be specified that the Bureau will act as the secretariat to the Council which is mandated to perform this role.

Senator Drilon. Mr. President, if the Bureau simply becomes a secretariat, what will happen to the technical people in the Bureau? Will they be recycled?

Senator Leviste. The Bureau is also represented in the National Council as an integral member of the Council and therefore will play an active role in the formation of policies.

Senator Drilon. Yes, but I assume that it is only the bureau director who is a member of the Council. In the clarification that the Senator has indicated, the EMB will be reduced to a secretariat. I assume that, right now, given the key functions of the EMB--and it issues environmental clearance certificates--the bureaucracy is full of technical people and experts in environment. If the EMB becomes only a secretariat, what will we do with all these people? Will they be terminated? What will happen to them? Because a secretariat would not obviously require expertise, expert knowledge.

Senator Leviste. Mr. President, the experts will still be there and will be performing the functions that they are expected to do. But for the purpose of this particular bill, the EMB director will represent the EMB in the Council and will be aptly aided by the experts in the Bureau.

Senator Drilon. Mr. President, this is my experience in the bureaucracy. A personnel in the bureaucracy will only take orders from the superior in the line of authority. They will not take orders from staff officers.

A council is basically a body which will formulate plans, et cetera. If these experts will remain in the EMB, I do not know if that will be an effective way of running the bureaucracy. Maybe we have to be very clear as to the exact role of the EMB, whether or not we really would want to reduce the EMB to a mere secretariat.

Senator Leviste. Mr. President, this will not be the only role of the EMB as mentioned earlier under the Administrative Code. There are many functions of the EMB. But for the purpose of this bill, the EMB's role as secretariat is only an add-on to the role that it has as member of the Council, and to the many other duties and obligations that the EMB must perform.

Senator Drilon. I see. On page 5, lines 24 to 26, the function of the EMB is to develop and prescribe procedures for the issuance of appropriate permits and clearances on solid waste management for adoption by the local government units. Now, assuming that this function is either performed by the Bureau or by the Council, would the adoption by the local government units of the procedures adopted by either the EMB or the Council be compulsory? Meaning, can it digress from the procedures?

Senator Leviste. The local government units have their own unique problems, so we wanted to give the local government units the latitude or the leeway to address these problems which are unique to their own particular situation.

Senator Drilon. Would the procedures issued by either the EMB or the National Council on the issuance of permits and clearances on solid waste management be compulsory on the local government units or not?

Senator Leviste. Yes, that would be compulsory upon the local government units.

Senator Drilon. But the lady Senator just mentioned, Mr. President, that the local governments are in the best position to know what the requirements are of their solid waste management and the procedure.

Senator Leviste. Yes.

Senator Drilon. In other words, consistent with the Local Government Code, should we not give them some leeway? Should we not give the local government units some leeway in the adoption of the procedures for the issuance of permits? Because, as mentioned by the sponsor, the circumstance may differ from one municipality to the other.

Senator Leviste. While that is true, the problems are unique. However, there are certain policies which will be adopted on the national level and the action plans will be implemented by the local councils which will be implemented by the local government units.

Senator Drilon. Anyway, I hope that the sponsor can review this.

Senator Leviste. We will revisit that portion and try to see what we can do about the permits and clearances which will be given mandatory adoption by the local government units. We will have to look at that again.

Senator Drilon. Yes. On the following line, line 27, either the Bureau or the Council--whichever way the sponsor may decide later on--is also given the power to monitor and evaluate programs and project proposals of local government units on solid waste management. I would like to focus on the term "evaluate". What does this exactly mean, Mr. President?

Senator Leviste. Since the local government units have their own unique problems and will propose and develop their own local action plans, they could consult with the National Council which will be assisted by a team of experts. They could assist, evaluate these project proposals and give assistance where and when it is needed.

Senator Drilon. Can the National Council disapprove a project proposal? When the sponsor says "evaluate," it means that there is an action that would be done after the evaluation. What is contemplated by this provision, Mr. President?

Senator Leviste. Mr. President, I believe it would be possible for the Council to disapprove the local action plans and make provisions or suggestions on how it would best apply to the local situation and, at the same time, to be consistent with the programs and policies set forth by the National Council.

Senator Drilon. If the local government officials will disregard such disapproval, would they be subjected to disciplinary action?

Senator Leviste. It is not provided in this bill, Mr. President.

Senator Drilon. Right. But how about in the Local Government Code or in the supervisory powers of the President when the local government units would violate a valid order from the national government? It can be a ground for insubordination.

When the good sponsor said that evaluation of program can entail a disapproval of the program, and if the disapproval is disregarded by the local government unit, would that constitute an administrative offense of insubordination?

Senator Leviste. Mr. President, this representation does not think that such sanctions are necessary because it is envisioned in this bill that the principles or this culture of solid waste management should be institutionalized.

What this bill wanted to do was to encourage local government units to cooperate. Therefore, we did not feel it was necessary to include sanctions or penalties for noncompliance.

In fact, the role of the National Council is to help or assist the local government units that seem to be at a loss as to the technical or scientific know-how on how to dispose and facilitate the disposal of their solid waste.

Senator Drilon. Mr. President, what is the use then of the disapproval of the program if the local government units can still implement it and disregard that disapproval?

Senator Leviste. Well, the monitoring and the possibility of disapproval could lead to further discussions, coordination, creation and development of a plan that could merit the approval of the National Council.

Senator Drilon. If the kind sponsor will permit, may I again suggest that this be reexamined in view of the possible confusion that can arise from such....

Senator Leviste. Yes, Mr. President, definitely, we will revisit and possibly revise this for more clarity.

Senator Drilon. Mr. President, on page 7, there are four representatives to the National Council coming from the private sector. May we know what is the tenure of these representatives from the private sector?

Senator Leviste. Mr. President, they have the same tenure as the other members of the Council.

Senator Drilon. But the other members of the Council would have no tenure. For example, a director of the Department of Trade and Industry may be a career personnel whose tenure is up to 65 years old.

Senator Leviste. It is not specified in the bill, Mr. President.

Senator Drilon. Yes, it is not.

Senator Leviste. It could be subject to further study so that the tenure of the members of the Council could be specified and given a specific duration.

Senator Drilon. Yes, I hope, Mr. President. Would three years be reasonable?

Senator Leviste. Yes, the members of the local centers have a tenure of three years. Yes, three years could be a possibility.

Senator Drilon. Who will appoint the representatives of the private sector? The bill does not so indicate.

Senator Leviste. The chairman of the Council will be appointed by the President and the....

Senator Drilon. Yes, the chairman of the Council is appointed by the President. How about the representatives of the private sector? Who will appoint them?

Senator Leviste. The President.

Senator Drilon. They are presidential appointees, Mr. President?

Senator Leviste. Yes, Mr. President. The members of the private sector who will be part of the Council shall also be appointed by the President. It is just like the chairman of the National Council.

Senator Drilon. Is that indicated anywhere in the bill, Mr. President?

Senator Leviste. It is not specified yet. What is contained is the powers and functions of the Council as well as the appointing authority or power of the chairman. Therefore, that could be included, Mr. President.

Senator Drilon. I also note on page 7, line 31, the use of the phrase "anti-dumping measures" giving the

National Council the power to draw up and recommend anti-dumping measures. We all know that we commonly understand the word "anti-dumping" as referring to tariff measures which the President or Congress may authorize to impose on products that are being dumped into the country to protect local industry.

Senator Leviste. That is not the context in which it is used, Mr. President.

Senator Drilon. So, may we suggest that a different phrase be used rather than "anti-dumping."

Senator Leviste. That is well-taken, Mr. President. That term will be revised so as not to confuse it with the anti-dumping law.

Senator Drilon. Again, on page 8, under Section 7, allow me to read it:

SEC. 7. *Local Government Units.* - Pursuant to the relevant provisions of Republic Act No. 7160, or the Local Government Code, and subject to the review of the Bureau and the National Council as provided herein, the local government units shall be primarily responsible for the implementation and enforcement of the provisions of this Act within their respective jurisdictions.

I am not very clear on the import of this provision and how it would be taken in light of the previous discussions. May we know exactly what this means? What exactly is the role of the local governments vis-a-vis the National Council and the Environmental Management Bureau as far as the enforcement of this Act is concerned?

Senator Leviste. Yes, Mr. President. Under the Local Government Code, as we all know, the basic services and facilities of solid waste management are implemented by the local government units. Therefore, the National Council will simply provide an integrated national

framework for solid waste management, and this National Council will consist of directors from different agencies as well as members of the private sector. But it will be the local government units that will be the implementing arm or the implementing units for these national policies and programs.

Senator Drilon. Again, may I suggest to the good sponsor that we review this very carefully especially the concepts and policies that we are trying to provide in this bill, especially on the powers of the Council or the Bureau because of the conflicting provisions on the approval and the authority of the Bureau and the Council over local plans.

May I suggest that this be reviewed thoroughly so that the concepts are clear and confusions are avoided.

Senator Leviste. Yes, Mr. President. This bill supports the devolution of powers and functions to the LGUs by simply providing the national framework which the DENR and the other members of the National Council represented will formulate. These policies and programs will serve as the guidepost in the implementation by the LGUs of the solid waste management programs.

Senator Drilon. That is right, Mr. President. So that if these are not consistent with the guidepost, the Bureau or the National Council can disapprove the plans submitted by the local government?

Senator Leviste. Naturally, Mr. President. If the plans are inconsistent with the national policy, the National Council has the prerogative to seek revisions or disapprove.....

Senator Drilon. Will that follow even if this solid waste disposal plan proposed by the local government is funded purely out of local funds? In that instance, would the Bureau or the National Council still have the absolute authority to approve or disapprove?

The sponsor does not have to answer the question. But these are issues which I would like the sponsor to think about.

Senator Leviste. That is a good point and will be studied, especially if it is funded primarily or solely by the local government unit. However, I believe that there is a need for some consistency between the national policies and the local government units, and if there is no power by the National Council to approve or disapprove or monitor and evaluate the local action plans, then it would render the National Council useless in trying to create a National Solid Waste Management Council.

Senator Drilon. Whatever it is, Mr. President, we would rely on the judgment of the sponsor, but we must be clear as to the policy. That is all we are looking at.

Senator Leviste. Yes, that is correct, Mr. President.

Senator Drilon. On page 16, Section 17, lines 10 to 21, the bill provides for access entry. The provision authorizes an officer of the department to have access to any and all records relating to solid waste.

Mr. President, I assume that the sponsor is aware of the constitutional provisions against unreasonable search and seizures.

Senator Leviste. This, of course, will be subject to existing laws and provisions.

Senator Drilon. Because under the Constitution, only a judge can issue a search warrant.

Senator Leviste. We are aware of that, Mr. President.

Senator Drilon. And this is in the nature of a blanket authority given to an officer of the department to have access to any and all records related to solid

waste. This can be so broad that it could fail the constitutional test of unreasonable search and seizure.

May I suggest to the good sponsor that this be reexamined in light of the provisions of our Constitution which guarantee rights for our citizens against unreasonable search and seizures, and only upon a warrant issued by a judge.

Senator Leviste. Yes, Mr. President. I am sure that this bill was envisioned not to violate any existing laws especially the right to privacy and to search without a warrant issued by a judge. This provision will be reexamined to make sure that it is not inconsistent with existing laws.

Senator Drilon. Because I would want to call the attention of the sponsor that the Labor Code granted a similar authority to the administrator of the POEA. It granted the administrator of the POEA absolute access to records of recruitment agencies, and the Supreme Court struck it down as unconstitutional.

So the lady Senator will have to take a second look at this provision.

Senator Leviste. Yes, the point of the gentleman is well-taken, Mr. President.

Senator Drilon. Just a few more points.

On page 18, lines 9 to 17, it says:

The National Council shall encourage the business and industrial sector, through the formulation of appropriate incentives to manufacture environment-friendly products, to introduce, develop and adopt innovative processes that recycle and reuse materials....

What would "appropriate incentives" here include? Would these include tax breaks? Would these include deductions from the income tax? What?

Senator Leviste. The National Council, Mr. President, would not be in a position to provide tax breaks, for example, because we believe that that needs to be legislated.

Senator Drilon. So what are these incentives?

Senator Leviste. These incentives will be nonfiscal incentives, Mr. President. Only nonfiscal incentives would be appropriate for this provision, but it is not specified yet. The Council should also be able to determine the kind of nonfiscal incentives that would be given to those businesses and industrial establishments that are in the recycling industry or manufacture environment-friendly products.

Senator Drilon. Would the good sponsor be willing to amend the provision to be more specific as to what these incentives would entail?

Senator Leviste. Yes, Mr. President. We will be open to more specific incentives.

Senator Drilon. On page 19, line 19, the provision states, "imprisonment of one year to three years" for gross violations. May we know what is a "gross violation"? Because apparently the penalty becomes heavier in case of a gross violation. So what is a "gross violation"?

Senator Leviste. We would have to refer, Mr. President, to Section 21(c).

Senator Drilon. It says here that the following acts are hereby prohibited:

- c) The manufacture, distribution or use of packaging materials for consumer products, other than those indicated as recyclable on the list of the EMB-DENR.

Is that what is referred to as "gross violation"?

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Is there a distinction between a "gross violation" and a "simple violation" in terms of the penalty?

Senator Leviste. "Gross violations" would refer to repeated violations of this provision, because it is envisioned that there will be a set of materials which will be acceptable by the industry and those which will eventually be phased out, as suggested by our previous colleagues who interpellated this representation. In fact, there were also suggestions that sanctions and penalties be made stiffer other than just encourage the positive approach.

Senator Drilon. Mr. President, since this is a penal provision, the law must be specific, otherwise the validity of this provision may be questioned.

On the other hand, the lawyers can have a field day and assert that there is nothing gross about the violation and therefore he or she should not be subjected to the penalty. That is all that I am looking at. Maybe "gross violation" here is in the context of a generic phrase but when we talk about the penal sanctions, we must be very precise, Mr. President, otherwise we cannot enforce the law. That is all we are looking at.

Would it make a difference if we remove the word "gross" and just say "violations"?

Senator Leviste. To my mind, Mr. President, "gross violations" would not only mean repeated violations but also outright disregard for the law. The manufacture and the dumping, for example, of packaging materials are in gross violation of the existing law. However, we believe that this could be revisited and restudied again. We can define particularly what are these violations which will merit such an imprisonment.

Senator Drilon. Maybe it is better that we just indicate when the penalty becomes higher rather than simply say "gross," Mr. President.

Senator Leviste. Yes, that will be acceptable, Mr. President.

Senator Drilon. Mr. President, we will await the committee amendments before we revisit this bill.

Senator Osmeña III wishes to be recognized once more just for one question, according to him.

The Presiding Officer [Sen. Flavio]. Sen. Sergio Osmeña III is recognized.

Senator Osmeña (S). Thank you. I am sorry, Mr. President, I misplaced another file on this particular bill but it should not be hard to find it. This is probably in the other office. But I wanted to ask and cover a topic that is close to the sponsor's heart also--toxic and hazardous wastes.

Now, toxic and hazardous wastes are maybe part of the generic term "solid waste"?

Senator Leviste. Yes, Mr. President, but allow me to go back to the definition here. I believe that this would cover nonhazardous wastes. Let me just confirm this because there would be laws that would cover hazardous and toxic wastes, though solid waste referred to here would not cover toxic waste.

Senator Osmeña (S). Would it not be wise to at least make mention of toxic and hazardous wastes in this particular bill for several reasons? One, it takes quite long to formulate and pass another bill. Two, the existing law covering toxic and hazardous wastes, which I believe was passed in 1989,--

Senator Leviste. In 1990, Mr. President.

Senator Osmeña (S). --is pretty weak. There are so many loopholes that we cannot get the Americans to clean up. It was open as to penalties, and I think the principle of "polluter pays," as enunciated by the Rio

Convention, should come into play perhaps at a later time. I would like to suspend my interpellation for now, but I would like to reserve my right to come back and interpellate on another date. Thank you.

Senator Leviste. Yes, Mr. President. The toxic waste issue is covered, as mentioned by another law. And this would also cover hazardous and nuclear waste and that is in RA No. 6969. This bill which we are presently studying covers only solid waste. It does not cover the nonhazardous and toxic waste.

Senator Drilon. Mr. President, in view of the reservation made by Senator Osmeña and Senator Pimentel, I move that in the meantime we suspend consideration of Senate Bill No. 1595.

The Presiding Officer [Sen. Flavie]. Before we act on the motion, Senator Magsaysay wishes to manifest a reservation.

Senator Drilon. No, Mr. President. He is just getting ready to sponsor another bill.

The Presiding Officer [Sen. Flavie]. Our apologies.

SUSPENSION OF CONSIDERATION OF S. NO. 1595

Senator Drilon. So, I move that we suspend consideration of Senate Bill No. 1595.

The Presiding Officer [Sen. Flavie]. Is there any objection? [Silence] There being none, the motion is approved.

Senator Drilon. Mr. President, I know the hour is getting late, but with the indulgence of our colleagues, there are few items which we would like to finish just for sponsorships and simple resolutions.

SPECIAL ORDER

So with the indulgence of our colleagues, I move that we transfer from the Calendar for Ordinary Business