

## RECORD OF THE SENATE

**FRIDAY, MAY 26, 1995**

### RESUMPTION OF THE SESSION

*At 10:02 a.m., the session was resumed with the Honorable Edgardo J. Angara, President of the Senate, presiding.*

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

**Senator Romulo:** Mr. President.

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

### BILL ON SECOND READING Senate Bill No. 2077 — Migrant Workers (Continuation)

**Senator Romulo:** Mr. President, I move that we resume consideration of Senate Bill No. 2077 as reported out under Committee Report No. 999.

**The President:** Resumption of consideration of Senate Bill No. 2077 is now in order.

**Senator Romulo:** Mr. President, we are still in the period of individual amendments.

I ask that the Sponsor of the bill, the Chairman of the Committee of the Whole, Senator Herrera, be recognized. I ask also that the Senate President Pro Tempore, Senator Shahani, be recognized for her amendments.

**The President:** Senator Herrera, the Sponsor, is recognized with the Senate President Pro Tempore, Senator Shahani, to introduce her amendments.

**Senator Shahani:** Thank you, Mr. President.

Mr. President, as I said during the period of interpellations, I would be proposing some amendments mainly in relation to the rights of migrant women.

I would like to thank the distinguished Sponsor for incorporating in the first draft, which he gave to us, some mention on the role of women.

So the amendments, Mr. President, which I am submitting will really be to amplify and give more detail to what we had previously together discussed.

**The President:** What page is it?

**Senator Shahani:** Mr. President, I am still using the old copy and I am wondering whether this is the same copy.

### SUSPENSION OF THE SESSION

**Senator Romulo:** May I ask for a one-minute suspension of the session, Mr. President.

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

*It was 10:05 a.m.*

### RESUMPTION OF THE SESSION

*At 10:06 a.m., the session was resumed.*

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

**Senator Shahani:** Mr. President, as my first proposed amendment, I would like a new paragraph included in the Declaration of Policies.

**Senator Herrera:** May I know what page, Mr. President?

### SHAHANI AMENDMENTS

**Senator Shahani:** This will have to be on page 2, Mr. President, and it would come before Section (d). In other words, it will have to be a new Section (d), and I propose that it should read like this:

“SEC. (d). THE STATE AFFIRMS THE FUNDAMENTAL EQUALITY BEFORE THE LAW OF WOMEN AND MEN AND THE SIGNIFICANT ROLE OF WOMEN IN NATION-BUILDING. RECOGNIZING THE CONTRIBUTION OF OVERSEAS MIGRANT WOMEN WORKERS AND THEIR PARTICULAR VULNERABILITIES, THE STATE SHALL APPLY GENDER SENSITIVE CRITERIA IN THE FORMULATION AND IMPLEMENTATION OF POLICIES AND PROGRAMS AFFECTING MIGRANT WORKERS AND THE COMPOSITION OF BODIES TASKED FOR THE WELFARE OF MIGRANT WORKERS.”

**The President:** What is the pleasure of the Sponsor?

**Senator Herrera:** The amendment is accepted, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

So we will renumber the original subparagraph (d) to (e), et cetera, because we are introducing a new subparagraph (d).

**Senator Shahani:** Thank you, Mr. President. For my next amendment, I would like to propose that we put it on page 10, between lines 22 and 23. This comes under the new Section 15, Mr. President.

I propose that there be another paragraph under Section 15 which will come after line 22. It will come on line 23. It will read this way:

"FOR THIS PURPOSE, THE TECHNICAL EDUCATIONAL SKILLS DEVELOPMENT AUTHORITY (TESDA), THE TECHNICAL LIVELIHOOD RESOURCE CENTER (TLRC) AND OTHER GOVERNMENT AGENCIES INVOLVED IN TRAINING IN LIVELIHOOD DEVELOPMENT SHALL GIVE PRIORITY TO RETURNEES WHO HAD BEEN EMPLOYED AS DOMESTIC HELPERS AND ENTERTAINERS."

This is really to absorb the large number of women who are coming back into their families and to gain more respect in their communities and to discourage them from going back again to their former position of entertainers and domestic helpers.

I think this is the difficulty with all of these domestic helpers. They come home and then they find that there is really nothing for them to come home to, and then they go back again even if they have been raped and sexually harassed.

**Senator Herrera:** The amendment is accepted, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Shahani:** Thank you, Mr. President. The next amendment will be found on page 11, between lines 8 and 9, after subparagraph (d). I would like to propose that we have several subparagraphs which are very short and just to indicate the main areas which this Center should be involved in.

A new subparagraph (E), Mr. President, would read: "HUMAN RESOURCE DEVELOPMENT."

I think this is very important because we have to look at the human being as a whole person. That is all under subparagraph (E), Mr. President.

**The President:** Subparagraph (E) will add "HUMAN RESOURCE DEVELOPMENT." Is that the wording?

**Senator Shahani:** That is correct, Mr. President. That is on page 11 after line 8.

**The President:** After line 8. Between lines 8 and 9, insert an additional subparagraph that will be small letter "(e)" and add "HUMAN RESOURCE DEVELOPMENT."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Shahani:** After that, Mr. President, another subparagraph (F) which will read: "SKILLS TRAINING AND UPGRADING FOR EVENTUAL REINTEGRATION BACK HOME."

This, again, is mainly towards those women migrant workers who really need help not only in the formal but also in the informal sectors of the economy and they feel lost when they return. I think some attention to them should be possible, Mr. President.

**The President:** What is the phrase now—"SKILLS TRAINING..."

**Senator Shahani:** "...AND UPGRADING FOR EVENTUAL REINTEGRATION BACK HOME."

**Senator Herrera:** It is accepted, Mr. President. I am glad that the Senator from Pangasinan proposed this because we are institutionalizing the program being implemented now in Taiwan. They are already implementing this program.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Shahani:** Then the last subparagraph, Mr. President, subparagraph "(G)" would read: GENDER-SENSITIVE PROGRAMS AND ACTIVITIES TO ASSIST PARTICULAR NEEDS OF WOMEN OCWs.

We spoke about this during the debate and interpellation, Mr. President, and the Sponsor and this Representation agreed that programs should really be more gender-sensitive. That is, we disaggregate information concerning men and women so that we can really be more sharply focused on the assistance we want to give to them.

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing

none, the amendment is approved.

**Senator Shahani:** Mr. President, on the same page, page 11, line 11, after the word "available," I propose that we insert the phrase "NONGOVERNMENTAL ORGANIZATIONS" and then delete the phrase "Filipino community settled in the," so that the NGOs are really the ones who will come into play.

**Senator Herrera:** Could the distinguished Senator repeat the amendment?

**Senator Shahani:** It will read like this, Mr. President: "The Center shall be staffed by the service attaches or officers who represent other Philippine government agencies abroad and, if available, NONGOVERNMENTAL ORGANIZATIONS and volunteers in the host countries." That will also include not only Filipinos but also the foreigners who might want to help the Filipinos. I think I said yesterday, in Japan, it is the Japanese human rights lawyers who are helping the *Japayukis* there, Mr. President.

**Senator Herrera:** And probably with the understanding, just so we can reflect this in the *Record*, that we should give priority to Filipino volunteers.

It is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Shahani:** Thank you, Mr. President.

Mr. President, on the same page, still on the Center which, I think, is very important, and I am glad that this is included in this new draft. We would like to see a new paragraph between lines 19 and 20. We would like to insert a new paragraph which will read as follows:

"THE CENTER SHALL HAVE A COUNTERPART TWENTY-FOUR HOUR INFORMATION AND ASSISTANCE CENTER AT THE DEPARTMENT OF FOREIGN AFFAIRS IN THE PHILIPPINES COORDINATING WITH APPROPRIATE GOVERNMENT AGENCIES AND NONGOVERNMENTAL ORGANIZATIONS TO ENSURE NETWORKING AND COORDINATIVE MECHANISMS IN THE HOME OFFICE. THE COUNTERPART CENTER SHALL ASSUME FULL RESPONSIBILITY FOR SUCH ASSISTANCE."

Mr. President, without a Center like this, the embassies abroad cannot be expected to give highest priority to the migrant workers unless there are instructions from the home office to do so. This is really to reinforce what the distinguished Sponsor has

been stressing all along, that we need to reorient our diplomats abroad.

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection to the amendment? [Silence] Hearing none, the same is approved.

**Senator Shahani:** Mr. President, on the same page after the new Section 16, I propose a new Section 17 entitled "INFORMATION ASSISTANCE." This, again, is where the disaggregated information is so important.

Section 17 will read as follows:

"INFORMATION ASSISTANCE. THERE SHALL BE A DATA SYSTEM WHICH SHALL PROVIDE ASSISTANCE SERVICES SUCH AS, BUT NOT LIMITED TO:

(A) LIST OF FILIPINO CONTRACT WORKERS CLASSIFIED ACCORDING TO SEX, AGE, JOB CATEGORY, OCCUPATION, CIVIL STATUS, AND COUNTRY OF DESTINATION;

(B) STATISTICAL PROFILE OF FILIPINO MIGRANTS OVERSEAS;

(C) BASIC DATA ON LEGAL SYSTEMS, IMMIGRATION POLICIES, MARRIAGE LAWS AND CIVIL AND CRIMINAL CODES IN RECEIVING COUNTRIES PARTICULARLY THOSE WITH LARGE NUMBER OF FILIPINOS;

(D) LIST OF LABOR AND OTHER HUMAN RIGHTS INSTRUMENTS WHERE RECEIVING COUNTRIES ARE SIGNATORIES;

(E) PROGRAMS AND SERVICES AVAILABLE TO FILIPINO WORKERS ABROAD; and

(F) A TRACKING SYSTEM OF PAST AND PRESENT GENDER DISAGGREGATED CASES INVOLVING MALE AND FEMALE OCWs."

That is the end of the new Section 17, Mr. President.

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection to the proposal to add a new Section 17? [Silence] Hearing none, the amendment is approved.

**Senator Shahani:** Thank you, Mr. President.

On page 13. I would like to ask that the following be added as....

**The President:** Before that, the Secretary is directed to renumber the paragraphs.

**Senator Shahani:** That is correct, Mr. President.

So that on page 13, Mr. President, add the following as paragraph (b) after paragraph (a)...

**The President:** This has been deleted.

**Senator Shahani:** Mr. President, I am on page 13. Although paragraph (a) has been deleted, I would therefore like to add this paragraph as subparagraph "B."

**The President:** Is it an amendment regarding functions and responsibilities?

**Senator Shahani:** Yes, Mr. President.

**The President:** Then it can go under Section 19 because that is the amended functions and responsibilities.

**Senator Herrera:** That is under the Legal Welfare Commission.

**The President:** Under the Legal Welfare Commission. Page 12 of the new draft.

**Senator Shahani:** Yes, Mr. President, it can come after subparagraph (a), on page 12. And this would read as follows: "KEEP AND MAINTAIN THE INFORMATION SYSTEM AS PROVIDED IN SECTION 17."

We would like them to be using the same data base, the same information data base, because this is very important, this aggregation, all of the signatories to the human rights and labor instruments.

**The President:** If I may suggest. We can insert that on page 12-a, between lines 14 (ee) and 14 (F) as an additional subparagraph "E." So we do not disturb the sequencing, we just add that as a new subparagraph.

**Senator Shahani:** That is acceptable, Mr. President, as long as the idea is kept that we are using the same data base.

**The President:** Yes.

**Senator Herrera:** It is accepted, Mr. President.

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

**Senator Shahani:** Then, Mr. President, as a new subparagraph "C" because the rest has been deleted, I would propose this....

**The President:** Is it again part of the enumeration of functions and responsibilities?

**Senator Shahani:** Yes, Mr. President.

**The President:** Then we can make it subparagraph "F" because the Lady Senator's amendment has already been designated as subparagraph "E."

**Senator Shahani:** Well, Mr. President, I think we will leave the numbering. But I think this would figure subparagraph (c), if I am not mistaken.

**The President:** What we did is, we keep the original subparagraphs (a) to (d) and we added the Lady Senator's amendment as an additional subparagraph "E." And if this is an additional function again, I would suggest that we add it as subparagraph "F," so that we do not alter anymore the sequence.

**Senator Shahani:** Thank you, Mr. President.

Mr. President, this is the new subparagraph that I would like to add:

"THE PERSONNEL APPOINTED UNDER THIS SECTION SHALL BE GENDER-SENSITIVE. FOR PURPOSES OF THIS ACT, GENDER-SENSITIVITY SHALL MEAN COGNIZANCE OF THE EQUALITIES AND INEQUITIES PREVALENT IN SOCIETY BETWEEN WOMEN AND MEN AND A COMMITMENT TO ADDRESS ISSUES WITH CONCERN FOR THE RESPECTIVE INTEREST OF THE SEXES."

Again, I believe that this principle is important, Mr. President, because as I said, there is a changing pattern of migration in the Philippines. In the beginning, the main migrants were the men. And as it is now, the larger percentage of our migrants are the women.

This is not really to be biased for the women, but it is really to be sensitive to the fact that in the issue of migrant workers, the matter of gender is very important in coming up with any useful policy on the migrant workers, Mr. President.

**The President:** This amendment is really not an additional function; this is an additional qualification. But is this gender

sensitivity not already stated in the original amendment of the distinguished Gentle Lady in the statement of policies, and therefore the gender sensitivity qualification applies not only to the legal officer but to all the staff of the resource center, the legal office and everyone involved in handling the affairs of overseas workers? Perhaps the original statement in the statement of policy may already adequately cover the rightful concern of the Gentle Lady on gender sensitivity.

**Senator Shahani:** That is true, Mr. President. I just would like, of course, to know from the distinguished Sponsor whether a definition of gender sensitivity would help this legislation. I am sure in the Department of Labor and Employment, when they will issue the implementing rules and guidelines, this will be one of the more difficult issues on which to have implementing rules and guidelines. Maybe, we can place this definition of gender sensitivity in a more crucial place instead of under this.

**Senator Herrera:** My suggestion is that, based on this declaration of principle on gender sensitivity, we can reflect here on the records that in the preparation of the implementing rules and regulations, that should be given emphasis and there should be a clear definition of what gender sensitivity means.

**Senator Shahani:** That is acceptable to me, Mr. President. We can help the Sponsor to do that.

**The President:** Yes.

**Senator Shahani:** My next amendment, Mr. President. I propose to place Section 33 on page 18-A between lines 17 and 18, after the new Section 32. This will read:

"SECTION 33. IMPLEMENTING RULES AND REGULATIONS. - THE DEPARTMENTS AND AGENCIES CHARGED WITH CARRYING OUT THE PROVISIONS OF THIS ACT SHALL, WITHIN NINETY (90) DAYS AFTER THE EFFECTIVITY OF THIS ACT, FORMULATE THE NECESSARY RULES AND REGULATIONS FOR ITS EFFECTIVE IMPLEMENTATION."

Just to be sure, Mr. President.

**The President:** Yes. I think that amendment is so important that we provide a separate section for it, and I suggest that it be Section 33, and then we renumber the subsequent sections thereafter.

**Senator Shahani:** That is correct, Mr. President.

**The President:** What is the pleasure of the Sponsor?

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved. The Secretary is instructed to renumber the subsequent sections accordingly.

**Senator Shahani:** Mr. President, may I now come to that section on the Country-Team Approach, and in this new text before us. This appears on page 15.

I would like to read the entire sentence because I think we had a debate on this. This is how I would propose...

**Senator Herrera:** This is on page...?

**The President:** Pages 15 and 15-A.

**Senator Shahani:** Pages 15-A and 16.

I propose that we amend the last sentence of this section, Mr. President.

**The President:** That is found on page 16.

**Senator Shahani:** Page 15-A, the beginning.

**The President:** All right, line 30, that is the last sentence: "The protection of the Filipino migrant workers..."

**Senator Shahani:** I just would like to read the sentence first so that the intent of my proposals will be better appreciated. The sentence — if all the amendments are accepted — would read as follows:

"THE PROTECTION OF THE FILIPINO MIGRANT WORKERS AND THE PROMOTION OF THEIR WELFARE, IN PARTICULAR, AND THE PROTECTION OF THE DIGNITY AND FUNDAMENTAL RIGHTS OF THE FILIPINO CITIZEN, IN GENERAL, SHALL BE AMONG THE HIGHEST PRIORITY CONCERNS OF THE PHILIPPINE FOREIGN SERVICE POSTS."

I had to consult the Department of Foreign Affairs, Mr. President, in order to get the technical wording. Because we have to show the foreign office, that the home office here has the main responsibility in making this — it is not the embassy abroad. The embassy abroad cannot just do it on its own. It is the home office which is the nerve center. So, instead of calling them embassies, we call them foreign service posts. They can be consulates; they can be honorary consulates.

**The President:** So, under the Gentle Lady's proposed

amendment,...

**Senator Shahani:** I will have to do this now...

**The President:** Let me just clarify. Because under the original text, "the protection of the rights of overseas Filipino is the primordial concern," even superior to diplomatic function. Under the Gentle Lady's proposal, this duty is only one among

**Senator Shahani:** One among the highest priorities.

**The President:** — the highest priority concerns.

**Senator Shahani:** Yes.

**The President:** I just want to clarify that.

**Senator Herrera:** This will really substantially change the intention of this provision.

**The President:** Yes. It is a very drastic change of concept and substance.

**Senator Shahani:** Mr. President, maybe I am taking also the side of the foreign service. I mean, we enter into relations with other nations of the world not just to protect the rights of our migrant workers. I think the foreign office exists to establish relations with other nations of the world.

If we just say we establish an embassy, for instance, in Saudi Arabia, just for the sake of our migrant workers, I do not think the Saudi Arabian government would accept that as a bilateral agreement. In other words, they give us the courtesies, et cetera. I am just being realistic, Mr. President.

Now, is this for domestic consumption? Is this for international consumption? Because if it is the highest concern, then that would also reverse the foreign policy.

I agree, Mr. President, that there has to be a radical change in orientation. But the establishment of a diplomatic post abroad is really a bilateral issue. It cannot just be a unilateral decision on our part. And part of that bilateral agreement is really the promotion of bilateral relations. We can say, of course, that that is subsequent or subordinate.

**Senator Herrera:** Well, the promotion of bilateral relations, Mr. President, is important. The reality is, we establish embassies—not necessarily in Saudi Arabia because of the strategic importance of Saudi Arabia — but in many countries of the Middle East primarily because of the concentration of

large Filipino workers.

If we look at the trade relations and the political significance of our diplomatic relations with these countries, I would say these are really important. But on the degree of priority, it is the concentration of the Filipino workers and their contribution to our economy.

I can understand the case of Saudi Arabia, because its strategic importance in the Middle East is something really that should be given a very high priority. But many of these Middle Eastern countries, Mr. President, I do not see the relevance of putting up embassies if we do not have the Filipino workers there.

**The President:** What about this phrasing...?

**Senator Shahani:** May I just say this, Mr. President. I think we must also have a time perspective. Is this a permanent foreign policy? Because we are really touching on something very important. It is our relations with the entire international community.

**The President:** Yes.

**Senator Shahani:** Now, in five years, if we say we are going to phase this out, we again will have to reverse the priorities.

This is what I am saying should be one among the priority concerns. To imprison us in a situation where we are saying we are going to create employment here at home, we will make the Philippines a center in our region which means employment will increase; and then, we will be saddled with a policy which we now establish here in Congress where the realities will not be the same, I am sorry.

Also as a diplomat, we should think very clearly. We have no overseas workers in China. But our relations with the Spratlys is one of the biggest and most difficult crisis we are entering now because it relates with our own territorial integrity.

Does it mean, Mr. President, that just because there are no overseas migrant workers in China, we give that a low priority? This is how I would read and interpret it.

**The President:** If the Chair may just interject? The Chair can see the advocacy for a balanced role to be played by our embassy abroad. The traditional function of our diplomatic post is to establish and promote diplomatic relations. We cannot do away with it, whether we like it or not, because that is the *raison d'être*, that is the rationale for posting diplomats abroad.

On the other hand, there is now this growing awareness and recognition that the diplomatic posts must go beyond their traditional classical function of just simply maintaining and promoting diplomatic relations and attend now to the protection not just simply of migrant workers, but especially of migrant workers — while this policy is temporarily being pursued for the protection of the rights of Filipino citizens abroad.

**Senator Shahani:** Mr. President, I am in favor of that.

**The President:** Yes. The Chair is just trying to clarify what the distinguished Senators are arguing for and what the intent of this provision is. If the Chair may suggest an alternative phrasing and see how it would sound to the Gentle Lady, as well as to the distinguished Sponsor. It runs like this. After the words "protection of the dignity," et cetera, insert "SHALL, ALONG WITH THE PROMOTION AND MAINTENANCE OF DIPLOMATIC RELATIONS, BE THE HIGHEST PRIORITY CONCERN." We identify immediately the classical role of the diplomatic service and the additional orientation we wanted imbibed under this law.

**Senator Shahani:** Mr. President, may I just say that I am not batting for the classical approach. We are entering the age of globality. There is nothing classical about our having to push our exports, our having to get the latest technology from abroad. These are all functions of the embassy. I am not talking about conservative, traditional diplomats in "striped pants." I am thinking now of these diplomats who must also know what it is to get the latest patents, to compete in the areas of industry and agriculture. That is what the embassy has to do abroad.

How can we be globally competitive only in terms of the migrant workers? I am sorry to have to be a little blunt, but I am sure competitiveness has to be done in other areas of endeavor and not just in the area of migrant workers. That is what I am trying to say, Mr. President.

**Senator Herrera:** Mr. President.

**The President:** The Sponsor is recognized.

**Senator Herrera:** Mr. President, I suggest that we delete the phrase "superior to other diplomatic functions" so that the last sentence would read, after the words "protection with dignity and fundamental rights," et cetera, "IN GENERAL SHALL MEAN THE PRIMORDIAL CONCERN OF THE PHILIPPINE EMBASSIES."

We will delete the phrase "superior to other diplomatic functions," because the protection of the rights of the citizens should have preference over other diplomatic functions.

**The President:** If I may suggest, we are just really being tied up on the phraseology. I think, more or less, the concept is identical. If we can just leave this aside and, perhaps, the Sponsor can redraft the amendment and just come back to it later on so that we can move on to other amendments.

**Senator Herrera:** Yes, in consultation with the Senator from Pangasinan.

**Senator Shahani:** Thank you, Mr. President.

That is all, and I would like to thank Senator Herrera for accepting, in substance, all of the amendments I have proposed.

Thank you, Mr. President.

**Senator Gonzales:** Mr. President.

**The President:** Senator Gonzales is recognized.

#### GONZALES AMENDMENTS

**Senator Gonzales:** Mr. President, may I offer about three amendments to this clean version of this bill, the so-called amended copy as of May 25, 1995. The last two of them will be nothing but grammatical changes.

On page 3, between lines 14 and 15, I propose the insertion of a new paragraph to read as follows: "NONETHELESS, THE DEPLOYMENT OF FILIPINO OVERSEAS WORKERS, WHETHER LAND-BASED OR SEA-BASED, BY LOCAL SERVICE CONTRACTORS AND MANNING AGENCIES EMPLOYING THEM SHALL BE ENCOURAGED. APPROPRIATE INCENTIVES MAY BE EXTENDED TO THEM."

**Senator Herrera:** It is accepted.

**The President:** That should go into section...?

**Senator Gonzales:** That will be the second paragraph of paragraph (h) of Section 2, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Gonzales:** Then on page 5, line 28D, last line, instead of the word "its," delete the same and substitute it with the word "THEIR" because it speaks of "THE OFFICERS HAVING CONTROL, MANAGEMENT OR DIRECTION OF 'THEIR' BUSINESS SHALL BE LIABLE."

**Senator Herrera:** It is accepted.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Gonzales:** And the last would be on line 14, page 12. We have already deleted the creation of the "LEGAL WELFARE COMMISSION" and, therefore, there ought to be an appropriate change in the title of this article. I think the title ought to be "PRESIDENTIAL LEGAL ASSISTANT FOR MIGRANT WORKERS AFFAIRS."

**Senator Herrera:** It is accepted.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Gonzales:** That will be all, Mr. President.

**The President:** Thank you very much.

If I may just introduce a small amendment on page 6A, line 26. After the words "with the Department of Justice," include the phrase "THE INTEGRATED BAR OF THE PHILIPPINES"; insert "OTHER NONGOVERNMENTAL ORGANIZATIONS"; and delete the word "other" so that the whole two lines will read: "COOPERATE WITH THE DEPARTMENT OF LABOR, THE INTEGRATED BAR OF THE PHILIPPINES AND OTHER NONGOVERNMENTAL ORGANIZATIONS AND VOLUNTEER GROUPS."

**Senator Herrera:** It is accepted.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is carried.

Are there other amendments?

**Senator Herrera:** We have some amendments. There are some errors here.

**The President:** Go ahead, please.

#### HERRERA AMENDMENTS

**Senator Herrera:** On page 4, line 24, change the word "abstract" between the words "To" and "or" and between the words "to" and "inspection" to capitalized "OBSTRUCT."

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Herrera:** On page 10, line 12, the word "relavant" is misspelled. It should be corrected.

**The President:** Yes, it should be "relevant." Maybe we can instruct the Secretariat to go over these typographical errors and correct them.

**Senator Herrera:** On page 12, line 14, this was already corrected by Senator Gonzales.

**The President:** Yes.

**Senator Herrera:** On page 12A, lines 14T and 14W, the italics "OCWs" must be changed to "MIGRANT WORKERS" for consistency, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

The Secretariat again is instructed to effect the necessary change for consistency.

**Senator Herrera:** On the same page, line 14aa, change the capitalized word "OVERSEAS" to the word "MIGRANT."

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Herrera:** On page 15, line 19, change the capitalized word "ASSISTANCE" to "ASSISTANT."

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Herrera:** On page 18, line 6E, insert the capitalized word "ONE" between the words "TWENTY" and "YEARS." It should now be read as "TWENTY-ONE YEARS."

**The President:** I think we should include a numerical number "TWENTY-ONE" in letters and "(21)."

**Senator Herrera:** On page 18A, line 17A, insert the capitalized phrase, including the period (.) and the dash (-) symbols, "MIGRANT WORKERS DAY."

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Herrera:** On page 12A, line 14ff, change the capitalized word "OFFICER" to the capitalized word "ASSISTANT."

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Herrera:** On page 12, 14P, delete the semicolon



(;) and at the end of the sentence, add the following phrase to read as follows: "WHO ARE ARRESTED, INVESTIGATED OR CHARGED WITH CRIMINAL OFFENSES IN THE COUNTRIES WHERE THEY WORK."

**The President:** What section is that? Is it Section 19?

**Senator Herrera:** Section 19.

**The President:** That is the Presidential Legal Assistant for Migrant Workers Affairs.

**Senator Herrera:** Yes, Mr. President. So that the entire sentence will read: "TO ISSUE THE GUIDELINES, PROCEDURES AND CRITERIA FOR THE PROVISION OF LEGAL ASSISTANCE SERVICES TO FILIPINO MIGRANT WORKERS WHO ARE ARRESTED, INVESTIGATED OR CHARGED WITH CRIMINAL OFFENSES IN COUNTRIES WHERE THEY WORK."

**The President:** Are we confining legal assistance only to criminal cases? Or, are we not providing legal assistance to all types of cases in which overseas workers may be involved in? Because under that amendment, we will be confining legal assistance only to criminal matters.

**Senator Herrera:** So, even in civil cases, is it the intention to provide also assistance?

**The President:** Perhaps, it is better not to constrict it, leave it open and flexible as it is now.

**Senator Herrera:** In that case, we will just retain the original sentence.

**The President:** The original language.

**Senator Herrera:** So I withdraw the amendment.

On page 3, subparagraph (g), the provision seems to be redundant with the amendments of Senator Shahani that was accepted. We can delete the entire paragraph (g) since we accepted the amendments of Senator Shahani which covers this particular provision.

**The President:** So we will delete lines 6 to 9, subparagraph (g). Is there any objection? [*Silence*] Hearing none, the amendment is approved.

The Secretariat is instructed to renumber the subparagraphs.

**Senator Romulo:** Mr. President.

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

**Senator Romulo:** Mr. President, two of our Colleagues, Senators Biazon and Alvarez, have submitted to me their proposed amendments to the bill.

#### SUSPENSION OF THE SESSION

I wish to confer with the Sponsor. So may I ask for a suspension of the session.

**The President:** The session is suspended for a few minutes, if there is no objection. [*There was none.*]

*It was 10:54 a.m.*

#### RESUMPTION OF THE SESSION

*At 11:03 a.m., the session was resumed.*

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

**Senator Romulo:** Mr. President.

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

**Senator Romulo:** Mr. President, I have here the proposed amendment of our Colleague, Senator Biazon. He proposes on page 6, Section 5, paragraph (a), after the words "imprisonment of," to delete the phrase "not less than five (5) years but not more than ten (10) years and a fine of not less than Fifty thousand pesos (P50,000.00) nor more than Five hundred thousand pesos (P500,000.00)" and in lieu thereof, he proposes the following: "RECLUSION TEMPORAL IN ITS MEDIUM AND MAXIMUM PERIOD AND A FINE OF NOT LESS THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00) BUT NOT MORE THAN ONE MILLION PESOS (P1,000,000.00); PROVIDED, THAT THE MAXIMUM PENALTY SHALL BE IMPOSED IF ILLEGAL RECRUITMENT IS COMMITTED BY NONLICENSEE OR NONHOLDER OF AUTHORITY OR ILLEGAL RECRUITMENT CONSTITUTES ECONOMIC SABOTAGE AS DEFINED HEREIN." This is the amendment — deletion and replacement, Mr. President.

**Senator Herrera:** Can we just hear also the proposed amendments of Senator Webb which are related to this provision, Mr. President?

**The President:** Senator Webb is recognized.

#### WEBB AMENDMENTS

**Senator Webb:** Mr. President, I have an amendment to that

particular provision. If I may state my amendment, that is on page 6, lines 2 to 3, change "five (5)" to "SIX (6) YEARS AND ONE (1) DAY" and "ten years (10)" to "TWELVE (12) YEARS."

I have a reason for specifying this amendment, Mr. President. Section 6 of the bill provides that illegal recruitment cases are cognizable by the Regional Trial Courts. But under Republic Act No. 7691, expanding the jurisdiction of the Metropolitan Trial Courts, only those offenses by more than six years of imprisonment can fall under the jurisdiction of the Regional Trial Court. There has to be consistency here.

That is why my amendment is to change "five (5)" to "SIX (6) YEARS AND ONE (1) DAY" and "ten (10)" to "TWELVE (12)" years so that it will fall under the jurisdiction of the Regional Trial Court.

**The President:** That is a very good point. But the Biazon amendment would already bring it to the jurisdiction of the Regional Trial Court.

**Senator Webb:** That is why, Mr. President, I want to find out what is our feeling. Do we want it to go to the Municipal Trial Court or to the Regional Trial Court?

If we want to let it fall under the Municipal Trial Court, the Biazon amendment can be accepted.

**Senator Herrera:** Mr. President, we have to classify that there are two kinds of illegal recruitment here. One which constitutes an economic sabotage and another which does not. That is why we draw a distinction.

So we will note that in paragraph (a), this is illegal recruitment which is not classified as "economic sabotage." That is why it is only five years to 10 years. But I can accept the proposal of Senator Webb to make it consistent in this particular type of illegal recruitment.

The second type which would constitute economic sabotage is where we have the provision on paragraph (b), which, I think, is what Senator Biazon is...

**The President:** No. I think Senator Biazon is intending to amend type A crime.

**Senator Herrera:** Then there will be no distinction between ordinary illegal recruitment and one that is classified as economic sabotage because the victims are numerous, and that it is committed by a syndicate. I think we have to draw a distinction on that.

**The President:** I see. But going back to the main point raised by Senator Webb, first, we decide: Should these kinds of crimes, whether type A or B, go to the jurisdiction of the Regional Trial Court or the Type A can go to the Metropolitan Trial Court. My feeling is that it ought to go to the Regional Trial Court because we have already saddled the Metropolitan Trial Court enough by amending the provision.

**Senator Herrera:** I have no objection to that, provided that we have to retain the distinction between the ordinary illegal recruitment as against illegal recruitment that would constitute economic sabotage.

**The President:** So following that, the Webb amendment of increasing the penalty from five years to six years and a day and correspondingly increasing the fine seems to be consistent.

**Senator Herrera:** That is why I am accepting the amendments proposed by Senator Webb, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Romulo:** In other words, Mr. President, the proposed amendment of Senator Biazon has been amended by the Webb amendment.

**The President:** Yes.

**Senator Romulo:** Mr. President, Senator Biazon also proposed that we replace the same with the following which has been amended by the Webb amendment.

The other proposed amendment of Senator Biazon is to delete the whole of paragraph (b).

**Senator Herrera:** Mr. President, as I mentioned earlier, we have to maintain the distinction that is why I could not accept this.

**The President:** Is there any other amendment? Senator Webb.

**Senator Webb:** Yes, Mr. President, I have some amendments. May we start on page 1, line 7. Delete the words "endeavor to" as they would make the imperative weaker.

#### SUSPENSION OF THE SESSION

**Senator Herrera:** Mr. President, may I have a minute suspension of the session.

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

*It was 11:10 a.m.*

#### RESUMPTION OF THE SESSION

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

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

**Senator Webb:** Mr. President, after conferring with our Sponsor, I am withdrawing my proposed amendment.

May I now go to page 2, line 23 up to line 25. After the word "shall," insert the words "ALLOW THE" and change the word "deploy" to "DEPLOYMENT." Change the word "only" to "OF" and the word "and" to "BUT."

May I read the whole sentence now. "Pursuant to this, the government shall ALLOW THE DEPLOYMENT OF skilled Filipino workers BUT only to countries that guarantee their protection."

The reason for this, Mr. President, is if we look at the present wording, the provision indicates that it is only the government that is authorized to deploy skilled workers. The proposed amendment will clarify that even the private sectors may do so upon the government's approval.

**Senator Herrera:** Actually, the Committee used here the word "deploy" because the deployment of workers is regulated by the government agency, the POEA.

**Senator Webb:** That is why my position, Mr. President, is if we try to read the present provision, it is quite evident.

**The President:** The amendment will make it more flexible. It is not just limited to the government.

**Senator Webb:** Yes, Mr. President, that is the reason for the amendment — to make it flexible so that the private sector can come in upon approval of the government.

**Senator Herrera:** The problem here is that what we are really trying to address is the problem of undocumented workers. In fact, that is the reason there is a provision here for the creation of a Center that is responsible for the registration of undocumented workers abroad because this is the vulnerable sector. Although we have a policy here that after five years, there will be a deregulation.

Once we allow the deployment of workers now without first coursing it through the regulatory body, Mr. President — and I am referring to the POEA — then we will not be able to address the problem of undocumented workers.

**Senator Webb:** I think, Mr. President, by my amendment, it does not even show that indeed, as undocumented they will be given a blessing by the government. But certainly, what we are saying here is worded as it is, it will only be the government that can deploy overseas contract workers.

**Senator Herrera:** I think that should not be understood that way, Mr. President, that it is the government that is recruiting and deploying overseas contract workers. The deployment here is because the employment contract will have to be authenticated by the government.

**The President:** I think the wordings suggested by Senator Webb will capture that because, as worded, it seems that it is the government itself which will deploy workers when the intent is not really that.

**Senator Herrera:** We can change the wording provided that the flexibility will not allow the deployment of workers without government regulation because if we allow that, we will not be able to address the problem of undocumented workers.

**Senator Webb:** Is that an amendment to my amendment, Mr. President? I just want to make sure. In this particular provision, it is not only the government that will be allowed to deploy workers but the private sector can also do it with the government's blessing.

**Senator Herrera:** As long as that is clarified, because the use here of the wordings "the government shall deploy" does not mean that it is the government that is recruiting.

**Senator Webb:** But that is what it says, Mr. President, if we read the sentence very carefully. "Pursuant to this, the government shall deploy." It does not say that the private sector can also come in. That is why I want to make sure that by placing my amendment, it gives a guarantee that the private sector can do so provided that it works hand-in-hand with the government.

**Senator Herrera:** That is my concern if we will reflect that. I think what we should do, Mr. President, is retain the wordings now but reflect it in the *Record* that it does not mean that the government is the one recruiting. What it simply means is that the recruitment of workers is subject to the policies of the regulatory body. All employment contracts now must have to be authenticated by the POEA.

**The President:** I think there is no difference over the meaning. It is really how to reflect that meaning in the wordings.

**Senator Herrera:** The intention is the same. That is why I am trying to explain that even with this wording, which is now being used, it is really the private sector, meaning the bulk of the recruitment activities is really done by the private sector. What this wording simply means is that it has to be subject to the regulations of the POEA.

**Senator Webb:** I will not pursue the issue but, again, could we imagine that they will have to go to Congress and still search for this particular day where we argued on this primarily just to find out what we really meant by this particular provision? But if the distinguished Sponsor feels that the wordings are so placed to mean what I am trying to express, then I will not pursue the issue.

I just want to make sure that everything is clarified so that in the end, people who are lost in the meaning of some of the words that we have placed here will not go to us and say, "What do you mean by this? Is it the government only that will be allowed to deploy Filipino workers?" I just want to make sure.

**Senator Herrera:** That is why I am clarifying. It does not mean that the government is the one actually recruiting and deploying. My concern is that if we will not use this wording, the private sector might now claim that it does not have to submit anymore the employment contract to the POEA and follow its regulations. That will be our thrust in the future because we have a provision here in the regulation, but as of this time we have this problem of undocumented workers.

**Senator Webb:** I will not pursue the issue, Mr. President. I hope that I can be a member of the panel if there is a bicameral conference just to make sure that both sides understand this particular provision because this is very important.

**The President:** What about this compromised language. We keep the present wording, "PURSUANT TO THIS, THE GOVERNMENT SHALL DEPLOY AND/OR ALLOW THE DEPLOYMENT OF." It still connotes the idea that we cannot deploy without government permission and licensing, but it also accommodates the idea that private contractors will be the one to recruit and ask the government permission to deploy.

**Senator Webb:** If that is an amendment to my amendment, I will accept it, Mr. President. I think that is clearer than the present language right now.

**Senator Herrera:** What was the proposal? The government shall deploy...

**The President:** ... or allow the deployment.

**Senator Herrera:** It is accepted, Mr. President.

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

**Senator Webb:** On page 2, line 25, after the word "protection," insert the following sentence: "UNSKILLED WORKERS MAY, HOWEVER, BE DEPLOYED IN COUNTRIES WHERE THE GOVERNMENT HAS ENTERED INTO SPECIAL HIRING SCHEME."

**Senator Herrera:** Will the Gentleman please read the entire sentence?

**Senator Webb:** On page 2, line 25, after the word "protection", insert the following: "UNSKILLED WORKERS MAY, HOWEVER, BE DEPLOYED IN COUNTRIES WHERE THE GOVERNMENT HAS ENTERED INTO SPECIAL HIRING SCHEME."

**Senator Herrera:** Special. A sort of bilateral agreement. Only in countries where we have bilateral agreement?

**Senator Webb:** Yes. I have underlined that, Mr. President.

**The President:** Is it accepted?

**Senator Herrera:** No. There is this danger, Mr. President, that in countries where we do not have bilateral agreement, it means that our policy now is not to deploy or allow the deployment of unskilled workers. All these domestic helpers, all those unskilled, will have to come back. We will really be having an army of unemployed unskilled workers.

**Senator Webb:** Well, let me put it this way. I agree with the Sponsor, Mr. President. That will only constitute the base from which skilled workers really come from. I think that is the most important part of the discussion. But there are also effective means of transferring technology which comes from foreign source.

Just a question to the Sponsor. What is our intention regarding the unskilled workers? Is it our intention to someday extract them from their particular workplace and bring them back? Or is it our intention to continue to send unskilled labor so that sooner or later they will be the skilled laborers of tomorrow?

**Senator Herrera:** Our intention really is to deploy only skilled workers because their skill is also their protection. That

is why there are training programs here to develop skills for our migrant workers. But to stop now the deployment of unskilled workers is impractical. The bulk of our migrant workers are unskilled. So, in effect, we are telling them now "you come back." But can we provide them employment?

So, the better approach is long term. We develop their skills now and develop the economy, rather than immediately ban the deployment of unskilled workers.

The proposal of the distinguished Gentleman, Mr. President, in effect, will ban immediately the deployment of unskilled workers in countries with which we do not have bilateral agreement. That is my concern.

I see the good intention, but we have to be realistic.

**Senator Webb:** Mr. President, I think experience will tell us that some of the problems that have been brought forth during our Committee of the Whole meetings were on unskilled workers also. That is why I just want to make sure that they are well-protected. Maybe if we can say "as much as possible," but that will have no teeth whatsoever, no power.

**Senator Herrera:** There are already provisions here where we give priority to the deployment of our workers, both skilled and unskilled, in countries where we have bilateral agreements; in countries which are signatories to multilateral agreements that we give protection to migrant workers; in countries where they have legislation to protect the interest and welfare of workers, which really addresses the concern of the Gentleman.

**Senator Webb:** So, in short, the government will continue to give work to unskilled workers.

**Senator Herrera:** There is a policy to discourage.

**Senator Webb:** To discourage it, but at the same time, the government will not stop it.

**Senator Herrera:** The government will continue training these people. The problem is, if we will immediately stop it, we cannot also provide employment to these unskilled workers who really constitute the bulk of our migrant workers.

**Senator Webb:** With that argument, Mr. President, I will withdraw my amendment with the statement that indeed, we are not going to cut short — through a snap of a finger — the unskilled laborers we have by the millions. We just want to make sure — that is why I mentioned this — that as much as possible, we send them to areas where, as agreed upon, we have bilateral labor agreements. But how many countries are there right now

wherein we have bilateral labor agreements? I think right now, there are only about six countries that we have signed bilateral labor agreements with.

I am looking at some of the copies of this Agreement, halos walang laman ito; walang masasabing proteksiyon para sa ating mga OCWs.

In fact, iyong maliliit pang mga bayan, iyon pa ang masasabing naging nagbibigay ng proteksiyon. Iyong mga malalaki, where there is a saturation, a great number of Filipino workers, that is where we do not have bilateral labor agreements, surprisingly. Pero iyong maliliit, mayroon tayong bilateral labor agreements. Pero kung saan nandoon iyong saturation, high density of our workers, we cannot find bilateral labor agreements.

**Senator Herrera:** Actually, our government is really taking initiatives to enter into a bilateral agreement. But it seems that these receiving countries' policy is that once they agree to enter into a bilateral agreement with us, they will also be compelled to have a bilateral agreement with the other countries, which they do not want.

**Senator Webb:** Mr. President, this is a very important question, because I know the Gentleman is pursuing this. I have agreed with him on that matter, that before we deploy our workers, under the bill, is it still important na magkakaroon muna ng bilateral labor agreement bago tayo magpadala ng ating mga OCWs?

Ito po ba ay nakasulat sa batas na ito hanggang ngayon na bago tayo magpadala ng ating mga manggagawa ay kailangan mayroon tayong bilateral labor agreement doon sa bayan na pagdadalhan natin ng ating mga manggagawa?

**Senator Herrera:** In our policy pronouncement here, we have on page 2 a provision which says: "The country is a signatory to multilateral conventions, declarations or resolutions;" and, "The country has concluded a bilateral agreement or arrangement with the Government protecting the rights of overseas Filipino workers."

So, these are our priority — countries of destination.

**Senator Webb:** It is a priority.

**Senator Herrera:** Yes.

**Senator Webb:** But that does not mean that we will not send our workers if there is no bilateral labor agreement.

**Senator Herrera:** Yes.

**Senator Webb:** All right. Then we agree on that. There is no problem. Because when we started with this particular bill, we said that without any bilateral labor agreement, we will not send our workers. Now, it has become flexible.

**Senator Herrera:** Flexible.

**Senator Webb:** Then there is no problem, Mr. President. I will withdraw my amendment about the unskilled laborers.

**The President:** Is there any other amendment?

**Senator Webb:** Now on page 3, line 1, Mr. President. Insert between the words "concluded" and "bilateral" the words "OR IS ABOUT TO CONCLUDE." We cannot only have bilateral agreements with countries that we have concluded our agreements with, but actually, countries where we are about to conclude bilateral agreements with.

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Webb:** Still on page 3, lines 22 to 23, delete the words "canvassing" and "transporting." These words are too comprehensive, Mr. President.

For example, a researcher who is taking a survey of skilled workers in a given area, looking for them and asking them questions necessary for their data-gathering, may already be considered as canvassing. And also while, the Philippine...kunwari ang Philippine Air Lines ay lumipad para dalhin ang mga trabahador na ito, iyong mga manggagawa natin, or a bus company which transports them to Manila may already be considered as transporting.

**Senator Herrera:** I think, Mr. President, the Gentleman has to understand that these particular actions are related to illegal recruitment, and this provision is actually lifted from the provision of the Labor Code.

**Senator Webb:** Are these the same-worded provisions? Senator Herrera. One canvasses for the purpose of recruitment.

**Senator Webb:** I gave the distinguished Senator examples, Mr. President, and when that happens, using this particular provision, they can be penalized.

**Senator Herrera:** The indefinite act of canvassing may not constitute illegal recruitment, but when one canvass for the purpose of recruiting illegally, iyon ang kinu-cover dito.

**Senator Webb:** As long as that is our agreement and inserted into the *Record*, then I understand very well the intent. I will withdraw that particular amendment, Mr. President. May I now go to page 4, line 24 to 31. These are paragraphs G and H.

First, let me ask: Are we using the right word here? We are using the word "abstract."

**The President:** That is already corrected.

**Senator Webb:** But aside from that, does it really merit any criminal penalties on this particular...? Have those provisions been deleted or not, Mr. President?

**The President:** No. The word "abstract" has been corrected to "OBSTRUCT."

**Senator Webb:** All right, Mr. President.

**Senator Herrera:** Just to give a background to the good Senator. These provisions are lifted from the existing provisions of the Labor Code. These are merely reiteration of the provisions in the Labor Code, Mr. President.

**Senator Webb:** Yes, I know they are lifted from the Labor Code, but —

**Senator Herrera:** And under the requirement now, before one can open or be given a license, he should have an office, the records, and all that. Then, there is a requirement that the Department of Labor shall inspect said office periodically.

**Senator Webb:** Yes. Pero, ibig ba nating sabihin hindi lang siya makapag-report ay puwede na siyang makulong? Sa dami ng mga kasalanan na ginagawa natin, kung minsan ay ito pang napakaliit, iyon pa ang ikukulong natin ngayon. At pag hindi binuksan ang pintuan ng opisina para inspeksiyunin ng Secretary of Labor, ikukulong na rin siya.

**Senator Herrera:** Yes. But if one's purpose is really to obstruct the inspection because one is hiding something, at mayroon na silang records or there are reports, complaints that one is committing illegal recruitment —

**Senator Webb:** Anyway, Mr. President, this is recorded. I really find this act not serious enough to merit criminal penalties.

May we now go to page 5, lines 7 to 10. Are we not rather discriminating against travel agencies here? The good Gentleman is now talking of officers and members of the recruitment agencies or officers of the board — members of the travel agency

cannot be considered — can this be considered as a criminal offense deserving a penalty of life imprisonment?

**Senator Herrera:** Sa nangyari ngayon, mayroong mga travel agencies — in fact, this is actually ang contribution nila sa mga undocumented workers, iyong mga illegal workers — engaged in recruitment. These travel agencies are not supposed to engage in recruitment. But what they are doing, using their travel agency, i-register lamang nila as tourists — they secure tourist visas for them, the purpose is really to employ them, to provide them employment outside the country. Ditonagkakaroon ng maraming problema. So, this is the prohibition now, because this is a rampant practice actually.

**Senator Webb:** I know, Mr. President, but in our Constitution, there is freedom of association also. But if the Gentleman feels that itong mga travel agencies na ito ay binubuksan para sa ibang intensiyon at ito ay para maging illegal or recruitment agency na ilegal, sapagkat hindi naman talaga sila recruitment agency, ay kailangan ngang parusahan. Pero, ito ba ay handa nating i-implement, na hanggang doon sa mga officers and members ng kanilang asosasyon ay ating parurusahan? Ang intensiyon ay kapag sila ay gumagawa ng ganitong masamang gawain, na gumagawa sila ng illegal recruitment. Hindi naman iyon bagay sa kanilang trabaho.

Anyway, Mr. President, again I will withdraw that provided we implement this well enough.

On page 5, line 20, after the word "place," insert the words "WITHOUT THE WORKERS' FAULT." This is to preclude criminal liability for a recruiter.

**Senator Herrera:** It is accepted, Mr. President.

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

**Senator Webb:** Consistent with my amendment on page 6, lines 1 and 2, we have to go back on page 2, line 2. Kailangang may consistency dito. We have to change "Fifty thousand pesos (P50,000.00)" to "TWO HUNDRED THOUSAND PESOS (P200,000.00)" because P50,000.000 is too small.

**Senator Herrera:** What page is that?

**Senator Webb:** On page 6, line 2. "Fifty Thousand Pesos (P50,000.00)" would be replaced by "TWO HUNDRED THOUSAND PESOS (P200,000.00)" because P50,000.00, I believe, is too small. We have accelerated the penalty for imprisonment so we should accelerate the penalty for fine.

**Senator Herrera:** It is accepted, Mr. President.

**The President:** "TWO HUNDRED THOUSAND PESOS (P200,000.00)" in lieu of "Fifty thousand pesos (P50,000.00)." Is there any objection? [Silence] There being none, the amendment is approved.

**Senator Webb:** Still on page 6. On line 2, we changed "P50,000.00" to "P200,000.00." On line 5, we should also change P500,000.00" to P500,001.00." If the fine is only P500,000.00, it would fall either under simple or serious illegal recruitment. The proposed amendment will clarify that a fine of exactly P500,000.000 is only for simple illegal recruitment.

**The President:** Yes, but the fine of P200,000.00 will already bring it to the jurisdiction of the RTC, is it not?

**Senator Webb:** It will, Mr. President.

**The President:** So we do not have to change "P500,000.00" and add "P1.00" to it.

**Senator Webb:** The amount clarifies it from simple recruitment.

**Senator Herrera:** What it simply means is, the maximum is really the minimum in the case of economic sabotage.

**Senator Webb:** I beg your pardon, Mr. President.

**Senator Herrera:** The maximum of P500,000.00 penalty on the ordinary illegal recruitment is the minimum when it is an economic sabotage.

**Senator Webb:** That is why, by making it P500,001.00, we accelerate it to another offense.

**The President:** What we are trying to do is make the fine aspect of this penalty consistent with the jurisdiction of the RTC. We already did that on the imprisonment part, six years and one day. Hindi ba?

**Senator Webb:** That is right, Mr. President. I am sorry.

**The President:** So when we changed the P50,000.00 to P200,000.00, we already made it consistent.

**Senator Webb:** I agree, Mr. President. I lost track of what I had amended earlier. By amending that, it falls already under the jurisdiction of the Regional Trial Court.

**The President:** Yes, we should not touch that anymore.

**Senator Webb:** Yes, Mr. President, I withdraw that particular amendment.

On pages 16 to 19 — I am not a lawyer, Mr. President, but I asked my legal staff if this will not run counter to the Rules of Court. Because in Criminal Law and Procedure, under what court a criminal charge is to be filed is determined by the place or venue where the crime was committed.

It is also provided that when the court acquires valid jurisdiction, it may no longer be divested of such jurisdiction. The last provision of Section 6, as proposed, may be interpreted as allowing divestment of jurisdiction which has already been acquired. That is why my proposal is to play it safe, by deleting that provision starting from the word "Provided" up to the word "Act" which is on lines 16 to 19.

May we seek the advice of our Senate President regarding this, because this concerns some legality.

**The President:** Of course, we know that we cannot apply retroactively anything that will make it harsher in criminal cases. So, we cannot make retroactive application in criminal cases.

**Senator Webb:** That is why my amendment was to delete this particular provision.

**The President:** I think the deletion of this will still preserve that principle and, therefore, maybe this is not necessary because the courts will always prevent the retroactive application of a harsher penalty.

**Senator Herrera:** We are talking here, Mr. President, of venue where we make it easier for the complainant, the victim, to prosecute the illegal recruiter.

**Senator Webb:** So, I pursue my amendment that we delete lines 16 to 19, starting from the word "Provided" up to the word "Act."

**The President:** It may happen that because of existing law, the crime committed is pending with the Metropolitan Trial Court. But under this scheme, we elevate the jurisdiction to the Regional Trial Court.

So, what does the court do regarding that? Does it refer to the trial court? I think that is the only thing that we have to worry. Because as far as retroactive application of increased penalties is concerned, that will not be allowed by the court.

So, if we can make a provision for that contingency, then I think, it will be all right.

**Senator Herrera:** I think the important factor that we have to consider here is that it would be easier for the victim, Mr. President.

**Senator Webb:** May I make a suggestion, Mr. President. Let us leave this temporarily and then I will go back to it later.

**The President:** I think we are already racing against time now, unless we want to stay overnight. So, leave it for a while.

**Senator Webb:** Mr. President, before I finish my amendments, I will go back to it.

**The President:** All right.

**Senator Webb:** May we now go to page 7, line 4. On the calendar days, 15 days, are we not dreaming that this can be done within 15 days? That is why I am trying to be more accurate by saying, why not make it 30 days, if it is possible.

**Senator Herrera:** The point here is that the government should give immediate action on these cases. There are several victims of illegal recruitment. Workers are discouraged from filing these cases not only because of the cost involved, kundi medyo matatagalan.

**Senator Webb:** Mr. President, I know it takes years to prosecute. But it is impossible to resolve a particular case in 15 days.

My amendment is to make it at least 30 days, just to make sure that we are still within the framework of our provision.

**Senator Herrera:** In the Department of Justice, there is a task force which was organized just to prosecute illegal recruitment cases. If they will only concentrate on their work, I do not see any reason why they need a longer period.

**Senator Webb:** What I am saying, Mr. President, is that it is virtually impossible for an illegal recruitment case to be completed. Preliminary investigation alone, as we all know, will already take 15 days. Iyong mga subpoena pa, iyong mga ipadadalang mga taong iimbitahan diyan. Sa palagay ko, pitong araw din ang kailangan diyan.

**Senator Herrera:** What is important here is that we really have to address this serious problem of illegal recruitment, because this is one of the black marks in the overseas employment program. All these amendments are intended to make it easier to prosecute and encourage the victims to file cases.



**Senator Webb:** I agree with the Gentleman, and I share his views, Mr. President. But I am more realistic when I say it is very impossible to do this in 15 days. That is why my amendment is 30.

If the Gentleman will insist on 15 days, my next question is: What if the case is not terminated within the said period? What happens now? Who will be held liable, Mr. President?

**Senator Herrera:** There should be some kind of an administrative sanction. I think there are some sanctions under our existing laws.

**Senator Webb:** With that, Mr. President, I will keep my fingers crossed and though impossible, I will hope for the best—that the prosecution will be finished within 15 days. So I withdraw my amendment regarding this.

**The President:** Next amendment.

**Senator Webb:** On page 7, line 6, change the words "*prima facie* case" to "PROBABLE CAUSE."

In Section 2, Article III of the Constitution, it requires probable cause before a warrant of arrest is issued.

**The President:** I think this is a technical term and we ought not to change it to "PROBABLE CAUSE." Probable cause is associated with warrant of arrest. But this is *prima facie* case for filing the information. I think the use of the phrase "*prima facie*" is the correct technical term here.

**Senator Webb:** May we now go to page 7, lines 20 to 21. Change the following words "the Labor Arbiters of the National Labor Relations Commission (NLRC) to "THE PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION." This is as provided for in the existing laws.

**Senator Herrera:** Mr. President, that is precisely the reason why we are putting these amendments. Because what is happening now in the POEA is that there is so much delay in the resolution of cases. For one, the salary grade level of the POEA lawyers is too low that there are no applicants; second, we would like to eliminate several layers before a final order can be achieved. By doing away with the POEA function in this regard, then we are reducing the layers. After all, the decisions of the POEA on labor cases are still appealable to the NLRC. Besides, all work-related cases should be located in one agency. We thought that by transferring now this jurisdiction to the NLRC, this will accelerate the resolutions of cases pending before the POEA.

**Senator Webb:** May I ask, Mr. President, what is the

opinion of the NLRC regarding this. Because I know for a fact that they have a string or a litany of cases that are brought into their jurisdiction and here we are, we will add it to them again.

My second question, Mr. President, is: Are we now saying that the POEA has been a failure as far as this particular case is concerned?

**Senator Herrera:** It is a complete failure. It is not primarily the fault of the lawyers there. There are only a few of them because there are no applicants. Their salary grade level is too low. In the NLRC, we can still attract labor arbiters. All we have to do is probably elevate these lawyers now in the POEA and add more arbiters to handle specifically the problems of our overseas workers.

**Senator Webb:** In short, by giving it to the NLRC, we are now assured that such cases will be attended to.

**Senator Herrera:** At least, we eliminate several layers or steps before we can have final decisions on these cases.

**The President:** In short, the amendment is not accepted.

**Senator Herrera:** The amendment is not accepted.

**Senator Webb:** On page 8, line 6, change "two (2) months" to "SIX (6) MONTHS."

**Senator Herrera:** On what page?

**The President:** This is regarding compromise/amicable settlement on line 6, "shall not be more than two (2) months."

**Senator Herrera:** The Gentleman's proposal is not more than six months.

**Senator Webb:** That is right, Mr. President.

#### HERRERA-WEBB AMENDMENT

**Senator Herrera:** Can we have a compromise on this: "NOT MORE THAN FOUR (4) MONTHS"?

**Senator Webb:** It is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Webb:** On page 9, line 15, insert the words "OR CHARGED TO" between the words "by" and "the," to remedy a situation where the government is compelled to repatriate

workers at its own expense, so that it can later charge the recruitment agency concerned.

**The President:** So that the sentence will read: "All costs attendant to repatriation shall be borne by OR CHARGED TO the agency concerned and/or its principal."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Webb:** Still on the same page, line 19, change the words "the responsibility of" to "BORNE BY." So that the whole sentence will read: "...attendant thereto shall be BORNE BY the principal and/or the local agency."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Webb:** On page 10, line 3, insert the word "YEARLY" before the word "shall." So the whole sentence will read: "That the amount appropriated YEARLY shall in no case be less than One hundred million pesos (P100,000,000.00)."

If our intention, Mr. President, is to charge them on a yearly basis, then we have to put the word "yearly."

**Senator Herrera:** The intention here, Mr. President, is just to have a standby fund of P100 million and not an annual appropriation of P100 million.

**The President:** Yes.

**Senator Webb:** It is not an annual appropriation fund.

**The President:** No. It is a standby fund of P100 million. So we need not appropriate P100 million every year.

**Senator Webb:** I see. Then I withdraw the amendment.

**The President:** Yes.

**Senator Webb:** On page 10, line 11, insert between the words "communication" and "of" the word "AVAILABLE." So the whole sentence in line 11 would read: "Affairs through the fastest means of communication AVAILABLE on such discovery and other relevant information."

**Senator Herrera:** It is accepted.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Webb:** On page 12, lines 11 to 12, change "inform" to "FULLY APPRISE," and insert between "existence" and "of" the words "AND EFFECTIVITY."

**Senator Herrera:** On what line is it?

**Senator Webb:** This is on lines 11 to 12 on page 12. Change the word "inform" to the words "FULLY APPRISE." And on line 12, just to make it consistent, after the word "existence" insert the words "AND EFFECTIVITY."

So the whole sentence on page 12, lines 11 to 12 will read: "Department of Foreign Affairs shall FULLY APPRISE the Filipino migrant workers of the existence AND EFFECTIVITY of such legal options."

**Senator Herrera:** It is accepted.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Webb:** With these, Mr. President, I would like to thank the Honorable Sponsor for being very patient. Thank you very much.

**Senator Herrera:** Thank you.

**The President:** Thank you very much.

#### SUSPENSION OF THE SESSION

**Senator Romulo:** Mr. President, may I just ask for a one-minute suspension of the session.

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

*It was 11:57 a.m.*

#### RESUMPTION OF THE SESSION

*At 11:59 a.m., the session was resumed.*

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

**Senator Herrera:** Mr. President.

**The President:** The Sponsor, Senator Herrera, is recognized.

**Senator Herrera:** There was this proposed amendment of the Honorable Senate President Pro Tempore, Senator Shahani. Under the heading, "COUNTRY-TEAM APPROACH." She was objecting to the last phrase "superior function."

Let me read the proposed amendments, Mr. President, "The protection of the Filipino migrant workers and the promotion of their welfare in particular, and the protection of dignity and fundamental rights and freedom of Filipino citizens in general, shall be the highest priority concerns of the Philippine Foreign Service post."

The phrase "THE HIGHEST PRIORITY CONCERNS OF THE PHILIPPINE FOREIGN SERVICE POST" is acceptable, Mr. President.

**The President:** So this Shahani amendment will take the place of the last sentence appearing on page 15A, lines 30 and 31 and continuing to page 16, lines 1, 2, 3, and 4.

**Senator Herrera:** That is correct, Mr. President.

**Senator Maceda:** Mr. President.

**The President:** Senator Maceda is recognized.

#### MACEDA AMENDMENTS

**Senator Maceda:** Mr. President, I have an amendment there. I might as well incorporate it now. It is a simple amendment.

As read, before the words "THE PHILIPPINE SERVICE CORPS," insert the words "OF THE SECRETARY OF FOREIGN AFFAIRS AND."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection to the amendment? [Silence] Hearing none, the Maceda amendment is accepted.

Is there any objection to the Shahani amendment, as amended? [Silence] Hearing none, the same is approved.

**Senator Herrera:** Mr. President, we still have the amendments of Senator Alvarez, but since Senator Maceda is here, and I understand that he is attending in the other Committee hearings, let us give him the Floor.

**The President:** Senator Maceda is recognized.

**Senator Maceda:** Yes, Mr. President. I just have a few,

but before every amendment, I will have to ask if the particular section or subsection has been amended.

On the first page, Section 2, paragraph (a), has there been an amendment here already?

**Senator Herrera:** Actually, there was an attempt to amend this, but....

**Senator Maceda:** So there is no amendment at all.

**Senator Herrera:** Because these are lifted from the provision of the Constitution. So we did not allow the amendments.

**Senator Maceda:** So the distinguished Sponsor did not allow, if I may guess, the amendment to include the words "DOCUMENTED AND UNDOCUMENTED?"

**Senator Herrera:** Yes, Mr. President, in the sense that these are provisions of the Constitution. So what we did, we asked Senator Alvarez to submit another amendment — additional policy statements — which he did. We have the amendments of Senator Alvarez here but we have not yet discussed these because he has just submitted his amendments.

**Senator Maceda:** Mr. President, that is all right with this Representation. To begin with, I do not think there is any hard and fast rule that while we are adopting the provisions of the Constitution, that we may not strengthen them.

For example, my next amendment on that Section is to delete the words "endeavor to."

**Senator Herrera:** That is precisely the point, Mr. President. There are now amendments which we will soon adopt to be incorporated in this Section.

**Senator Maceda:** So the Sponsor is not saying that we should not amend it because we do not want to change the words of the Constitution but he wants to have an omnibus amendment to this Section.

**Senator Herrera:** There are amendments now, as proposed by Senator Alvarez, regarding the documented and undocumented workers as a separate paragraph.

**Senator Maceda:** I understand that. What I am saying is, the use of the words "endeavor to" in line 7 as well as in line 14 does not send a message of priority and obligatoriness on the part of the government.

In the spirit by which we are even called in Special Session,

I guess it will be consistent to delete the words "endeavor to" and say "the State shall PROVIDE, at all times, uphold."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved. Also on line 14?

**Senator Maceda:** That is right, Mr. President.

**The President:** "shall, at all times, UPHOLD." Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Maceda:** On page 3, line 7, "Toward this end..."

**Senator Herrera:** Mr. President, the entire paragraph is deleted because of the amendments of Senator Shahani. There is a new provision.

**The President:** Lines 6 to 9 have been deleted.

**Senator Maceda:** All right, Mr. President, we accept that. In which case, we would like to add a new paragraph — whatever is the letter. It should be (i) under this enumeration, but it is subject to style — to read, and this is pursuant to ILO Convention:

"THE ADMINISTRATIVE COSTS OF RECRUITMENT, INTRODUCTION, PLACEMENT AND ASSISTANCE TO MIGRANT WORKERS SHALL BE RENDERED FREE."

This is just a statement of a principle and part of the details are in Sections 30 and 31 of the bill.

**Senator Herrera:** How will this be taken in the light of the provision here that we are freezing the levels of fees now?

**Senator Maceda:** Precisely, the freezing will be preparatory to a phaseout, Mr. President. Because if we phase out in five years' time, there are no fees to be paid anyway. But this is just a statement of principle pursuant to ILO Conventions.

**The President:** Perhaps the Gentleman can preface it by saying that "WITHOUT PREJUDICE TO THE TRANSITION PROVISION OF FEES PROVIDED..."

**Senator Herrera:** Then probably, we can accept that, Mr. President.

**The President:** Subject to style.

**Senator Maceda:** Yes, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Maceda:** On page 6, Mr. President, on the Penalties for Illegal Recruitment, has there been any amendment?

**The President:** There is an amendment here increasing the penalty from five years to six years and one day and the fine from P50,000 to P200,000.

**Senator Maceda:** Mr. President, I wanted to provide an amendment of a higher penalty, and this I would like to consult the Sponsor. If the person recruited is less than 18 years of age, the maximum of the penalty shall be imposed.

"PROVIDED, HOWEVER, THAT THE MAXIMUM OF THE PENALTY SHALL BE IMPOSED IF THE PERSON ILLEGALLY RECRUITED IS LESS THAN EIGHTEEN (18) YEARS OF AGE."

**Senator Herrera:** There are two penalties here, Mr. President: One, on the ordinary illegal recruitment, and on the other, which would constitute economic sabotage. Is the Gentleman referring to the maximum penalty of the ordinary?

**Senator Maceda:** Of both classes: a 14- or 15-year-old minor which is very prevalent these days, the penalty should be higher.

**The President:** So the amendment should be inserted between lines 8 and 8A.

**Senator Herrera:** The amendment is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Maceda:** On page 12 on The Legal Welfare Commission...

**Senator Herrera:** This Legal Welfare Commission is already amended, Mr. President.

**Senator Maceda:** Yes, Mr. President. We now have a Presidential Legal Assistant.

**Senator Herrera:** Yes, Mr. President.

**Senator Maceda:** I would just like to add this disqualification on line 14K. The paragraph will read:

"The said Presidential Legal Assistant shall be appointed by the President and must be of proven competence in the field of law with at least ten (10) years of experience as a legal practitioner AND MUST NOT HAVE BEEN A CANDIDATE FOR AN ELECTIVE OFFICE IN THE LAST LOCAL OR NATIONAL ELECTIONS."

**Senator Herrera:** The amendment is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Maceda:** On page 16, Section 24, lines 17 to 20, I would just like to read the section, as amended.

"Within a period of FIVE (5) YEARS from the effectivity of this Act, the DOLE shall PHASE OUT the regulatory functions of the POEA pursuant to the objectives of deregulation."

**Senator Herrera:** What line is this, Mr. President?

**Senator Maceda:** Line 18.

"Within a period of FIVE (5) YEARS from the effectivity of this Act, the DOLE shall PHASE OUT the regulatory functions of the POEA pursuant to the objectives of deregulation."

**Senator Herrera:** The amendment is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Maceda:** On page 17A, on the Exemptions From Travel Tax, line 29, I propose to insert between the words "Travel" and "Tax" the words "AND AIRPORT." It will read "Exemptions From AIRPORT AND Travel Tax."

**Senator Herrera:** The amendment is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Maceda:** On line 31, between the words "travel" and "tax," insert the words "AND AIRPORT."

**Senator Herrera:** The amendment is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Maceda:** On page 18, line 1, after the word "entitlement", delete the words "to the exemption as may be deemed by proper authorities" and insert the words "BY THE POEA."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Maceda:** In the subsequent section, line 5, just to clarify, before the word "shall," insert the phrase "BEING CHARGED BY ANY GOVERNMENT OFFICE ON MIGRANT WORKERS."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Maceda:** That is all, Mr. President. Thank you very much.

**The President:** Thank you.

**Senator Gonzales:** Mr. President.

**The President:** Senator Gonzales is recognized.

**Senator Gonzales:** May I just put into the *Record* that the increase in the minimum impossible punishment for illegal recruitment from five years to six years and one day has the effect of denying to any person convicted of illegal recruitment the benefits of probation. That is the purpose of the increase.

**The President:** The intent is really to make it stiffer as well as elevate the jurisdiction from the Municipal Trial Court to the Regional Trial Court.

**Senator Gonzales:** I want that clear in the legislative *Record*, Mr. President.

**The President:** That is a good point, and we will spread it in the *Record*.

The Majority Leader is recognized.

**Senator Romulo:** Mr. President, we will now consider the proposed Alvarez amendments.

**Senator Herrera:** Thank you, Mr. President.

The first proposed amendment of Senator Alvarez, which the Sponsor would like to accept, is on page 9, Section 12, line 24, which is to delete the word "seeking." He is using the old version so this is subject to style. I really have problems of checking this because I do not have the copy of the old version.

**The President:** What section is that?

**Senator Herrera:** This is Section 12.

**The President:** Section 12 of the original — Repatriation of Workers; Emergency Repatriation Fund. I found it. It is on line 24, page 9.

Senator Alvarez is already here.

#### SUSPENSION OF THE SESSION

**Senator Romulo:** May I ask for a short suspension of the session, Mr. President.

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

*It was 12:13 p.m.*

#### RESUMPTION OF THE SESSION

*At 12:20 p.m., the session was resumed.*

**The President:** The session is resumed. Senator Alvarez is recognized.

#### ALVAREZ AMENDMENTS

**Senator Alvarez:** Mr. President, we are going to carry on where we left off last night. Our first proposed amendment will be on page 2, line 14. Insert a comma (,) and the phrase "DOCUMENTED AND UNDOCUMENTED" and another comma (,) thereafter, after the word "distress."

The sentence on line 11 will now read as follows: "In this regard, it is imperative that an effective mechanism be instituted to ensure that the rights and interests of Filipino migrant workers in distress, DOCUMENTED AND UNDOCUMENTED, are adequately protected and safeguarded."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing

none, the amendment is approved.

**Senator Alvarez:** On page 2, line 16, subsection (e). Begin with a new sentence which shall read as follows: "the right of migrant workers to SELF-ORGANIZATION is recognized AND GUARANTEED."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Alvarez:** On page 2, line 18, add the phrase: "AND TO BE REPRESENTED IN INSTITUTIONS RELEVANT TO OVERSEAS EMPLOYMENT."

**Senator Herrera:** It is accepted, Mr. President.

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Alvarez:** On the same line, add the words: AND GUARANTEED" after the word "recognized."

**The President:** Is there any objection? [*Silence*] Hearing none, the amendment is approved.

**Senator Alvarez:** Again, on subparagraph (e), it shall now read as follows: "The right of Filipino migrant workers to SELF-ORGANIZATION is recognized AND GUARANTEED."

**Senator Herrera:** We have already this provision.

**The President:** We have already approved that.

**Senator Alvarez:** It is a reiteration. On line 21, page 2, Section 2, (f), add the sentence: THE STATE SHALL REGULATE PRIVATE SECTOR PARTICIPATION...

**The President:** Where does the Gentleman want his amendment inserted?

**Senator Alvarez:** In the sentence "THE STATE SHALL REGULATE PRIVATE SECTOR PARTICIPATION IN THE RECRUITMENT" before the sentence starting with the word "Deployment."

**The President:** That word is not here in this particular sentence, in this particular subparagraph (f). The Gentleman may be referring to another subsection.

**Senator Alvarez:** It is on (f), line 21. It should be before

the sentence, before the word "Deployment."

**The President:** "Deployment." Okay.

**Senator Alvarez:** The sentence goes: "THE STATE SHALL REGULATE PRIVATE SECTOR PARTICIPATION IN THE RECRUITMENT" before the sentence starting with the word "Deployment".

**The President:** I think it may be in conflict with the policy of deregulation within five years. Anyway, the whole statute is really about regulation. But if we fix it as a matter of principle, then the regulation regime might remain. So that may not be necessary at all.

**Senator Herrera:** Can we now proceed to the next amendment?

**Senator Alvarez:** Mr. President, let me consider this portion.

**The President:** May I suggest that Senators Alvarez and Herrera get together so that they can go over the list of amendments — anyway it is in writing — and identify what...

**Senator Herrera:** I would suggest, Mr. President, that if we can proceed to his amendments starting in Section 7, then we can just go back later to the other amendments, because it is not very clear to me.

**Senator Alvarez:** That will be well and good, because we will have a conceptual divergence to iron out when we get to that portion on deregulation and phaseout.

We will proceed to No. 7.

**Senator Herrera:** No. Can we proceed to Section 7, under the new draft which is Section 6 in the old draft?

**Senator Alvarez:** Section 6, substitute the word "PROSECUTOR'S OFFICE."

**Senator Herrera:** That is now Section 7.

**Senator Alvarez:** That is on page 6, Mr. President.

**The President:** Yes. What is the heading of this section, because the amendment of the distinguished Gentleman seems to be based on the old draft.

**Senator Herrera:** This is under Section 7 under the title

"Venue."

**The President:** Section 7 under the new draft, that is "Venue."

**Senator Alvarez:** So that in lieu of the words "Regional Trial Court", we offer to amend it to "PROSECUTOR'S OFFICE."

**The President:** That cannot be, because this is already a criminal information. This has already passed through the prosecution's office; this is already filing in court.

**Senator Alvarez:** Is there an underlying assumption here that this case had already passed the prosecutor's examination?

**The President:** Yes. This is already the venue, the determination of where and what type of courts we will try it.

**Senator Alvarez:** Let us proceed then to Section 12.

**Senator Herrera:** That is now Section 13.

**The President:** Section 13 of the new draft — "Repatriation of Workers; Emergency Repatriation Fund."

**Senator Alvarez:** Under the new draft, Mr. President, page 9, line 24, delete the words "seeking" to read as follows:

"The Overseas Workers Welfare Administration (OWWA) shall undertake the repatriation of workers in cases of war, epidemic, disasters, or calamities, natural or man-made, and other similar events without prejudice to reimbursement from the responsible principal or agency."

**Senator Herrera:** The amendment is accepted.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Alvarez:** On line 2, page 12.

**Senator Herrera:** We are now talking of Section...?

**Senator Alvarez:** Section 17.

**The President:** Now Section 18 under the new draft. Page 12, top of the page — Rights and Enforceable Mechanism Under International and Regional Human Rights.

**Senator Alvarez:** Section 17, after the title add the following: "The Department of Foreign Affairs is mandated to

UNDERTAKE THE NECESSARY INITIATIVES SUCH AS PROMOTING ACCEPTANCE OR ADHERENCE OF COUNTRIES RECEIVING FILIPINO WORKERS TO MULTILATERAL CONVENTIONS, DECLARATIONS OR RESOLUTIONS PERTAINING TO THE PROTECTION OF MIGRANT WORKERS' RIGHTS."

**The President:** What is the pleasure of the Sponsor?

#### SUSPENSION OF THE SESSION

**Senator Herrera:** Mr. President, may I have a moment to consult with the proponent of the bill?

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

*It was 12:31 p.m.*

#### RESUMPTION OF THE SESSION

*At 12:33 p.m., the session was resumed.*

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

**Senator Alvarez:** Mr. President, may I now read the proposed amendment. Section 18, after the title add: "The Department of Foreign Affairs is mandated to UNDERTAKE THE NECESSARY INITIATIVES SUCH AS PROMOTIONS, ACCEPTANCE OR ADHERENCE OF COUNTRIES RECEIVING FILIPINO WORKERS TO MULTILATERAL CONVENTIONS, DECLARATIONS, OR RESOLUTIONS PERTAINING TO THE PROTECTION OF MIGRANT WORKERS' RIGHTS."

**Senator Herrera:** We accept, Mr. President.

**The President:** Is there any objection? [*Silence.*] Hearing none, the amendment is approved.

**Senator Alvarez:** On line 3, page 12, Section 17, insert the word "ALSO" between the words "is" and "mandated." These are of style, Mr. President.

**Senator Herrera:** We accept, Mr. President.

**The President:** Is there any objection? [*Silence.*] Hearing none, the amendment is approved.

**Senator Alvarez:** Well, this is the bone of contention. This is an amendment seeking to delete "V" DEREGULATION AND PHASE-OUT, Section 25, on page 16, lines 16 to 22.

#### SUSPENSION OF THE SESSION

**Senator Alvarez:** May I ask for a one-minute suspension of the session to confer with the proponent.

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

*It was 12:34 p.m.*

#### RESUMPTION OF THE SESSION

*At 12:35 p.m., the session was resumed.*

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

**Senator Herrera:** I am sorry, Mr. President, but we cannot accept the amendment.

**Senator Alvarez:** Mr. President, may I put into the *Record* that we do not have insuperable opposition to the use of the words "deregulation" and "phase-out" but we are so concerned that "deregulation" and "phase-out" will become a Trojan horse to let through and completely free market forces at play, so that the protective networks, which we seek to accomplish in this legislation for the rights of workers, especially in matters that arise from recruitment and for the least able to protect themselves — the women in the entertainment and domestic sector.

In view of the fact that this segment on deregulation and phase-out will not mean ultimately, in the long run, the nonintervention of the State to protect the workers, we are prepared to go along with the version of the Gentleman, Mr. President.

**The President:** The amendment is withdrawn. Any other amendment?

**Senator Alvarez:** Yes, Mr. President. Add a new section from lines 25 to 31 on page 16, the whole information system, and I had explained this already to the Gentleman.

**Senator Herrera:** Mr. President, there is already a provision on this as proposed by Senator Shahani.

**Senator Alvarez:** Is this the same provision which uses a network of information system and a sharing of that information system through electronic devices and creating an inter-agency mode?

**Senator Herrera:** Yes, Mr. President. In fact, the Shahani amendment also provided a mandate that this information system should be open 24 hours.



**Senator Alvarez:** That was in our proposed legislation, Mr. President. So it was already incorporated. We are only happy for that.

**Senator Herrera:** But let it be reflected in the records that the distinguished Gentleman already suggested that amendment yesterday.

**The President:** I think the records can reflect that that particular concept was introduced by both Senator Shahani and Senator Alvarez.

**Senator Alvarez:** May we now proceed to our next proposed amendment, Mr. President..

On line 25, page 15, Section 24...

**The President:** On what page is that please?

**Senator Alvarez:** On page 15.

**Senator Herrera:** This is also covered by the Shahani amendment, Mr. President. This is Section 22.

**Senator Alvarez:** Let us proceed to the next proposed amendment. This will be on the title. Can we now go back to the title?

**Senator Herrera:** Yes, Mr. President.

**Senator Alvarez:** Delete the word "PROGRAM" in the title so that it will now read: "AN ACT TO INSTITUTE THE POLICIES OF OVERSEAS EMPLOYMENT AND ESTABLISH A HIGHER STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS AND FOR OTHER PURPOSES."

**Senator Herrera:** It is accepted, Mr. President.

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

**Senator Alvarez:** Thank you, Mr. President.

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

**Senator Romulo:** May I ask that Senator Mercado be recognized.

**The President:** Senator Mercado is recognized.

**Senator Mercado:** Mr. President, I have only a few amendments. On page 10, line 17, after the word "POEA," I move that we insert the words "TECHNOLOGICAL LIVELIHOOD RESOURCE CENTER."

**The President:** TECHNOLOGY LIVELIHOOD RESOURCE CENTER.

**Senator Mercado:** Yes, I am sorry. I am proposing this, Mr. President, because these are under the TLRC, some *Kabuhayan* programs for the OCWs.

**The President:** I think this agency is already included in the Shahani amendment on lines 23 and 24.

**Senator Mercado:** If it is already included, Mr. President, I withdraw the amendment.

May I inquire also if my proposed amendment on Section 16, pages 10 to 11, for the inclusion of a 24-hour hotline to receive complaints and interpreting and translation service, is also included?

**The President:** Yes, that was already accepted.

**Senator Mercado:** Then I will not propose any amendment anymore.

**The President:** Thank you.

The Majority Leader is recognized.

**Senator Romulo:** Mr. President, I move that we close the period of individual amendments.

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

#### APPROVAL OF SENATE BILL NO. 2077 ON SECOND READING

**Senator Romulo:** Mr. President, I move that we vote on Senate Bill No. 2077, as amended, on Second Reading.

**The President:** We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill will please say *Aye*. [Several Senators: *Aye*.] As many as are against will please say *Nay*. [Silence]

Senate Bill No. 2077, as amended, is approved on Second Reading.

RESOLUTION ON SECOND READING

Senate Resolution No. 1143 - U.N. Convention on  
the Protection of Migrant Workers and Their Families  
(Continuation)

**Senator Romulo:** Mr. President, I move that we resume consideration of Proposed Senate Resolution No. 1143, the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families.

**The President:** Resumption of consideration of Proposed Senate Resolution No. 1143 is now in order.

**Senator Romulo:** I ask, Mr. President, that the Sponsor and Chairman of the Committee on Foreign Relations, Senator Ople, be recognized.

**The President:** Senator Ople is recognized.

COMMITTEE AMENDMENT

**Senator Ople:** Mr. President, concerning Proposed Senate Resolution No. 1143, may I manifest that the Committee, on the representation of Senator Roco, has agreed to introduce a Committee amendment which is just to reflect a provision already agreed upon in the course of the hearings of the Committee of the Whole. Thus, we insert after the sixth clause on page 2 of the Resolution this paragraph.

"WHEREAS, IN ORDER TO HASTEN THE ENTRY INTO FORCE OF THE CONVENTION, THE DEPARTMENT OF FOREIGN AFFAIRS SHOULD BE DIRECTED TO UNDERTAKE AND CARRY OUT AN AGGRESSIVE DIPLOMATIC CAMPAIGN TO OBTAIN THE RATIFICATION OF THE CONVENTION BY OTHER COUNTRIES WHICH HAVE NOT YET ACCEDED THERETO."

That is all, Mr. President.

**The President:** Is there any objection? [Silence] Hearing none, the amendment is approved.

**Senator Romulo:** I move that we close the period of individual amendments.

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

APPROVAL OF SENATE RESOLUTION NO. 1143

**Senator Romulo:** Mr. President, I move that we vote on Senate Resolution No. 1143, as amended, on Second Reading.

**The President:** We shall now vote on the Resolution, as amended, on Second Reading. As many as are in favor of the Resolution will please say *Aye*. [Several Senators: *Aye*] As many as are against will please say *Nay*. [Silence]

Senate Resolution No. 1143, as amended, is approved on Second Reading.

**Senator Romulo:** Mr. President, Senate Bill No. 2077, the Migrant Workers Act, as well as Proposed Senate Resolution No. 1143, are both certified bills. Therefore, we shall take up this bill and resolution for Third Reading, with clean copies, this afternoon.

Before we suspend the session, may I ask the Secretary to read any Additional Reference of Business.

**The President:** The Secretary will do so.

EIGHTH ADDITIONAL REFERENCE OF BUSINESS

**The Secretary:** Proposed Senate Res. No. 1144, entitled

RESOLUTION DIRECTING THE APPROPRIATE COMMITTEES TO INQUIRE, IN AID OF LEGISLATION, INTO THE PETITION OF CALTEX PHILIPPINES, INC. TO THE ENERGY REGULATORY BOARD (ERB) FOR A P1.79 PER LITER PRICE HIKE, WITH THE END IN VIEW OF LOOKING AT THE MERITS OF THE SAID PETITION AND IN THE PROCESS IDENTIFYING APPROPRIATE POLICIES THAT WOULD PROVIDE AN ENVIRONMENT CON- DUCIVE TO FREE COMPETITION IN THE OIL INDUSTRY

Introduced by Senator Mercado.

**The President:** Referred to the Committees on Energy; and Public Services.

**Senator Romulo:** Mr. President, I move that we suspend this morning's session until four o'clock this afternoon.

**The President:** Before we do that, Senator Tatad is recognized.

MANIFESTATION OF SENATOR TATAD  
(Referral of Proposed Senate Res. No. 1144)

**Senator Tatad:** Mr. President, with respect to the Resolu-

**BILL ON THIRD READING**  
**Senate Bill No. 2065 — Synchronized Elections and**  
**Electoral Reforms Law of 1991**

**Senator Romulo:** Mr. President, I move that we vote on Third Reading on Senate Bill No. 2065. Printed copies of the bill were distributed to all the Members of the Senate on May 22, 1995.

**The President:** Voting on Third Reading on Senate Bill No. 2065 is now in order.

The Secretary will please read only the title of the bill, if there is no objection. *[There was none.]*

**The Secretary:** Senate Bill No. 2065, entitled

AN ACT AMENDING SECTION 27 OF REPUBLIC  
 ACT NO. 7166, OTHERWISE KNOWN AS THE  
 SYNCHRONIZED ELECTIONS AND ELEC-  
 TORAL REFORMS LAW OF 1991.

**The President:** The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

*The Secretary called the roll and the result of the voting was as follows:*

YES - 13

Senator Alvarez	Senator Ople
Senator Biazon	Senator Roco
Senator Gonzales	Senator Romulo
Senator Herrera	Senator Shahani
Senator Macapagal	Senator Tatad
Senator Maceda	The President
Senator Mercado	

NO - 0

ABSTENTION - 0

**RESULT OF VOTING**

**The President:** With 13 affirmative votes, no negative vote, and no abstention, Senate Bill No. 2065 is approved on Third Reading.

**BILL ON THIRD READING**  
**Senate Bill No. 2077 — Migrant Workers Act of 1995**

**Senator Romulo:** Mr. President, I move that we vote on

Third Reading on Senate Bill No. 2077. Printed copies of the bill were distributed to all the Members of the Senate.

**The President:** Voting on Third Reading on Senate Bill No. 2077 is now in order.

The Secretary will please read only the title of the bill, if there is no objection. *[There was none.]*

The Secretary. Senate Bill No. 2077, entitled

AN ACT TO INSTITUTE THE POLICIES OF  
 OVERSEAS EMPLOYMENT AND ESTAB-  
 LISH A HIGHER STANDARD OF  
 PROTECTION AND PROMOTION OF THE  
 WELFARE OF MIGRANT WORKERS AND  
 FOR OTHER PURPOSES.

**The President:** The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

*The Secretary called the roll and the result of the voting was as follows:*

YES - 13

Senator Alvarez	Senator Ople
Senator Biazon	Senator Roco
Senator Gonzales	Senator Romulo
Senator Herrera	Senator Shahani
Senator Macapagal	Senator Tatad
Senator Maceda	The President
Senator Mercado	

NO - 0

ABSTENTION - 0

**RESULT OF VOTING**

**The President:** With 13 affirmative votes, no negative vote, and no abstention, Senate Bill No. 2077 is approved on Third Reading.

**SUSPENSION OF THE SESSION**

**Senator Romulo:** Mr. President, may I ask for a half-minute suspension of the session.

**The President:** The session is suspended for half-a-minute, if there is no objection. *[There was none.]*

*It was 5:01 p.m.*

## RESUMPTION OF THE SESSION

*At 5:02 p.m., the session was resumed.*

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

**Senator Romulo:** Mr. President, we have just received from the House the list of House panel to meet the Senate Panel on the disagreeing provisions of Senate Bill No. 2077 and the counterpart House Bill.

CONFERENCE COMMITTEE ON  
SENATE BILL NO. 2077/  
HOUSE BILL NO. 2065  
(Migrant Workers Act of 1995)

Mr. President, I ask that the following be named to compose the Senate panel: Senators Herrera, Ople, Shahani, Webb, Romulo, and Maceda.

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

CONFERENCE COMMITTEE ON  
SENATE BILL NO. 2065/  
HOUSE BILL NO. 14601  
(Synchronized Elections and  
Electoral Reforms Law of 1991)

**Senator Romulo:** Mr. President, for the disagreeing provisions of the Electoral Reforms Bill, Senate Bill No. 2065, and the House counterpart, I ask that the following be named for the Senate panel: Senators Tolentino, Romulo, Herrera, Alvarez, and Maceda.

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

## SUSPENSION OF THE SESSION

**Senator Romulo:** May I ask for a one-minute suspension of the session.

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

*It was 5:04 p.m.*

## RESUMPTION OF THE SESSION

*At 6:02 p.m., the session was resumed.*

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

The Secretary will read the Ninth Additional Reference of Business.

## NINTH ADDITIONAL REFERENCE OF BUSINESS

## MESSAGES FROM THE HOUSE OF REPRESENTATIVES

**The Acting Secretary [Atty. Cordoba]:**

May 23, 1995

Mr. President:

I have been directed to inform the Senate that the House of Representatives on May 23, 1995 passed House Bill No. 1248, entitled

AN ACT PROVIDING FOR THE REPATRIATION  
OF FILIPINO WOMEN WHO HAVE LOST  
THEIR CITIZENSHIP BY MARRIAGE TO  
ALIENS AND OF NATURAL-BORN FILIPINOS,

to which it requests the concurrence of the Senate.

Very truly yours.

(Sgd.) CAMILO L. SABIO  
Secretary General

The Honorable  
EDGARDO J. ANGARA  
President of the Senate  
M a n i l a

**The President:** Referred to the Committee on Justice and Human Rights.

**The Acting Secretary [Atty. Cordoba]:**

May 23, 1995

Mr. President:

I have been directed to inform the Senate that the House of Representatives on May 23, 1995 passed House Bill No. 14602, entitled

AN ACT AUTHORIZING THE COMMISSION ON  
ELECTIONS TO CONDUCT NATIONWIDE  
DEMONSTRATIONS OF COMPUTERIZED  
ELECTION MACHINES FOR THE PURPOSE  
OF VOTER-EDUCATION,