

RECORD OF THE SENATE

WEDNESDAY, MAY 24, 1995

RESUMPTION OF THE SESSION

At 5:54 p.m., the session was resumed with the Honorable Edgardo J. Angara, the Senate President, presiding.

The President: The session is resumed.

The Majority Leader is recognized

Senator Romulo: May we ask the Secretary to read the Second Additional Reference of Business.

The President: The Secretary is requested to do so.

SECOND ADDITIONAL REFERENCE OF BUSINESS

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

The Secretary:

17 May 1995

Honorable Edgardo J. Angara
Senate President
Senate of the Philippines
Senate, Manila

Dear Senate President Angara:

Pursuant to the provisions of Section 26(2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 333, entitled

AN ACT STRENGTHENING THE PROVISION ON
"LABOR-ONLY" CONTRACTING BY PROVIDING
PENALTY FOR THE VIOLATION THEREFOR,
AMENDING FOR THIS PURPOSE ARTICLE 106 OF
PRESIDENTIAL DECREE NO. 442, AS AMENDED,
OTHERWISE KNOWN AS THE "LABOR CODE OF THE
PHILIPPINES" AND FOR OTHER PURPOSES,

to meet a public emergency consisting of the need to provide additional, adequate, continuous and compassionate protection and safeguards to Filipino workers as a necessary means of further protecting and promoting their rights and welfare as mandated under the Constitution.

Best regards.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

cc: Honorable Jose de Venecia
Speaker
House of Representatives
Batasang Pambansa
Quezon City

The President: Referred to the Committee on Rules.

The Secretary:

17 May 1995

Honorable Edgardo J. Angara
Senate President
Senate of the Philippines
Senate, Manila

Dear Senate President Angara:

Pursuant to the provisions of Section 26(2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1465, entitled

AN ACT FURTHER STRENGTHENING VOLUNTARY
ARBITRATION AS A PREFERENTIAL
MODE OF LABOR DISPUTE SETTLEMENT
BY REQUIRING CERTAIN EMPLOYERS TO
ANSWER, IN CERTAIN CONDITIONS, THE
COST OF ARBITRATION INVOLVING RIGHTS
DISPUTES, AUTHORIZING THE PARTIES IN
THESE CASES TO DESIGNATE DIRECTLY
THE VOLUNTARY ARBITRATORS OF THEIR
CHOICE AND FOR OTHER PURPOSES,

to meet a public emergency consisting of the need to provide additional, adequate, continuous and compassionate protection and safeguards to Filipino workers as a necessary means of further protecting and promoting their rights and welfare as mandated under the Constitution.

Best regards.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

Mercado be recognized.

The President: Senator Mercado is recognized.

Senator Mercado: Mr. President, I do not have any substantive amendments. I think the mistakes are typographical and these things can be corrected by the Secretariat.

I just would like to manifest that we have discussed this with the Sponsor and he is amenable to the grammatical amendments.

The President: The Majority Leader is recognized.

Senator Romulo: Mr. President, before we vote on Second Reading on this Proposed Senate Resolution, may I ask that in the meantime, we suspend consideration of Proposed Senate Resolution No. 1143 until five minutes later.

SUSPENSION OF THE SESSION

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

It was 7:05 p.m.

RESUMPTION OF THE SESSION

At 7:06 p.m., the session was resumed.

The President: The session is resumed.

Senator Romulo: Mr. President, I move to withdraw the motion to suspend.

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

APPROVAL OF S. RES. NO. 1143 ON SECOND READING

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

The President: We shall now vote on the Resolution 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 is approved on Second Reading.

Senator Romulo: Mr. President, may I ask that the Fifth Additional Reference of Business be read.

The President: The Secretary will do so.

FIFTH ADDITIONAL REFERENCE OF BUSINESS

COMMITTEE REPORT

The Secretary: Committee Report No. 999, prepared and submitted by the Committee of the Whole on Senate Bill No. 2077 with Senators Herrera and Ople, *et al.*, as authors thereof, entitled

AN ACT TO INSTITUTE THE POLICIES OF THE OVERSEAS EMPLOYMENT PROGRAM AND ESTABLISH A HIGHER STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 2068, 2069, 2070, 2071, 2075, 2076, and taking into consideration Senate Bill Nos. 129, 137, 161, 312, 346, 388, 486, 724, 798, 892, 917, 980, 996, 1018, 1459, 1592, 1769, 1813, 1889, 1909, and 1943; House Bill Nos. 3764, 4523, 8716, and 14314; Proposed Senate Resolution Nos. 5, 27, 59, 114, 137, 141, 148, 225, 266, 330, 337, 346, 351, 365, 407, 467, 518, 548, 600, 604, 616, 618, 626, 657, 779, 836, 849, 856, 930, 932, 933, 947, 951, 1024 1041, 1057, 1058, 1080, 1090, and 1112.

Sponsors: Senators Herrera and Ople

The President: To the Calendar for Ordinary Business.

SPECIAL ORDERS

Senator Romulo: Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders, Senate Bill No. 2077 under Committee Report No. 999.

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

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

BILL ON SECOND READING Senate Bill No. 2077 - Overseas Migrant Workers

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

The Presiding Officer [Senator Mercado]: Consideration of Senate Bill No. 2077 is now in order.

With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the Record the whole text thereof.

The Secretary: Senate Bill No. 2077, entitled

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

The following is the full text of Senate Bill No. 2077:

SENATE BILL NO. 2077

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

SECTION 1. Short Title. - This Act shall be known and cited as the "Migrant Workers Act of 1995."

SEC. 2. Declaration of Policies. -

- (a) The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. Towards this end, the State shall endeavor to provide adequate and timely social, economic and legal services to Filipino migrant workers.
- (b) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at all times, endeavor to uphold the dignity of its citizens, in general, and Filipino migrant workers, in particular.
- (c) While recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, the State does not promote overseas employment as a means to sustain economic growth and achieve national development. The existence of the

overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizen shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development.

- (d) Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty. 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 are adequately protected and safeguarded.
- (e) The right of Filipino migrant workers to participate in the democratic decision-making processes of the State is recognized. The immediate institution of a system of absentee voting by Filipino migrant workers is imperative.
- (f) Deployment of Filipino workers abroad entails, on the part of the State, a responsibility to ensure their protection. Pursuant to this, the government shall deploy only skilled Filipino workers and only to countries that guarantee their protection. Guarantee of protection to Filipino migrant workers may be manifested by any of the following:
 - i) The country has existing labor and social laws protecting the rights of migrant workers; or
 - ii) The country is a signatory to multilateral conventions, declarations or resolutions relating to the protection of migrant workers; or
 - iii) The country has concluded a bilateral agreement or arrangement with the Government protecting the rights of overseas Filipino workers; or
 - iv) The country is taking positive, concrete measures to protect the rights of migrant workers.
- (g) The State recognizes the role of women in nation building. Toward this end all programs of the Philippine Overseas Employment Administration shall recognize the special need and characteristics of women migrant workers.
- (h) Non-governmental organizations, duly recognized

as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect.

SEC. 3. *Migrant Workers; Definition.* - For purposes of this Act, migrant worker refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national.

I

ILLEGAL RECRUITMENT

SEC. 4. *Definition.* - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referrals, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensed or non-holder of authority contemplated under Article 13(f) of the Labor Code: *Provided, That* any such non-license or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-license, non-holder, licensee or holder of authority:

- (a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay any amount greater than that actually received by him as a loan or advance;
- (b) To furnish or publish any false notice or information or document in relation to recruitment or employment;
- (c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under this Act;
- (d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- (e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;
- (f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;
- (g) To abstract or attempt to abstract inspection by the Secretary of Labor and Employment or by his duly authorized representative;
- (h) To fail to file reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;
- (i) To substitute or alter employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of labor and Employment;
- (j) For an officer or agent of a recruitment or placement agency to become officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;
- (k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under this Act and its implementing rules and regulations;
- (l) Failure to actually deploy without valid reason as determined by the Department of Labor and Employment;
- (m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where deployment does not actually take place.

Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more

persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

SEC. 5. Penalties. -

- (a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of 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).
- (b) The penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as define herein.

SEC. 6. Venue. - A criminal action arising from illegal recruitment as defined herein shall be filed with the Regional Trial Court of the Province or City where the offense was committed or where the offended party actually resides at the time of the commission of the offense: *Provided*, That the Court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts: *Provided, however*, That the aforestated provisions shall also apply to those criminal actions that have already been filed in court at the time of the effectivity of this Act.

SEC. 7. Free Legal Assistance; Automatic Entitlement Under the Witness Protection Program. - A mechanism for free legal assistance for victims of illegal recruitment shall be established within the Department of Labor and Employment including its regional offices. Such mechanism must include coordination and cooperation with the Department of Justice and non-government organizations and other volunteer groups.

The provisions of Republic Act 6981 to the contrary notwithstanding, any person who is a victim of illegal recruitment shall be automatically entitled to the Witness Protection Program provided thereunder.

SEC. 8. Mandatory Periods for Resolution of Illegal Recruitment Cases. - The preliminary investigations of cases under this Act shall be terminated within a period of fifteen (15) calendar days from the date of their filing.

Where the preliminary investigation is conducted by a prosecution offer and a *prima facie* case is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. If the preliminary investigation is conducted by a judge and a *prima facie* case is found to exist, the corresponding information shall be filed by the proper prosecution officer within forty-eight (48) hours from the date of receipt of the records of the case.

SEC. 9. Prescriptive Periods. - Illegal recruitment cases under this Act shall prescribe in five (5) years: *Provided, however*, That illegal recruitment cases involving economic sabotage as defined herein shall prescribe in twenty (20) years.

SEC. 10. Money Claims. - Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decides, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas employment including claims for actual, moral, exemplary and other forms of damages.

The liability of the principal and the recruitment/ placement agency or any and all claims under this Section be joint and several.

Any compromise/amicable settlement or voluntary agreement on any money claims exclusive of damages under this Section shall not be less than fifty percent (50%) of such money claims: *Provided*, That any installment payments, if applicable, to satisfy any such compromise or voluntary settlement shall not be more than two (2) months. Any compromise/voluntary agreement in violation of this paragraph shall be null and void.

Non-compliance with the mandatory periods for resolutions of cases provided under this Section shall subject the responsible officials to any or all of the following penalties:

- (1) The salary of any such official who fails to render his decision or resolution within the prescribed period shall be, or caused to be, withheld until the said official complies therewith.

(2) Suspension for not more than ninety (90) days; or

(3) Dismissal from the service with disqualification to hold any appointive public office for five (5) years.

Provided, however, That the penalties herein provided shall be without prejudice to any liability which any such official may have incurred under other existing laws or rules and regulations as a consequence of violating the provisions of this paragraph.

II

SERVICES

SEC. 11. Travel Advisory/Information Dissemination. - To give utmost priority to the establishment of programs and services to prevent illegal recruitment, fraud and exploitation or abuse of Filipino migrant workers, all embassies and consular offices, through the Philippine Overseas Employment Administration (POEA), shall issue travel advisories or disseminate information on labor and employment conditions, migration realities and other facts; and adherence of particular countries to international standards on human and workers rights which will adequately prepare individuals into making informed and intelligent decisions about overseas employment. Such advisory or information shall be published in a newspapers of general circulation at least three (3) times in every quarter.

SEC. 12. Repatriation of Workers; Emergency Repatriation Fund. - The repatriation of the worker and the transport of his personal belongings shall be the primary responsibility of the agency which recruited or deployed the worker overseas. All costs attendant to repatriation shall be borne by the agency concerned and/or its principal.

Likewise, the repatriation of remains and transport of the personal belongings of a deceased worker and all costs attendants thereto shall be the responsibility of the principal and/or the local agency.

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

For this purpose, there is hereby created and established an emergency repatriation fund under the administration, control and supervision of the OWWA, initially to consist of One hundred million (P100,000,000.00); which shall be taken from the existing fund controlled and administered by OWWA. Thereafter, such fund shall be provided for in the General Appropriations Act from year to year: *Provided,* That the amount appropriated shall in no case be less than One hundred million pesos (P100,000,000.00).

SEC. 13. Mandatory Repatriation of Underage Migrant Workers. - Upon discovery or being informed of the presence of migrant workers whose actual ages fall below the minimum age requirement for overseas deployment, the responsible officers in the foreign service shall without delay repatriate said workers and advise the Department of Foreign Affairs through the fastest means of communication of such discovery and other relevant information.

SEC. 14. Reintegration into the Mainstream. - The DOLE shall facilitate the smooth reintegration of returning migrant workers into the mainstream of economic activities in the country.

The DOLE, OWWA, and POEA shall, within ninety (90) days from the effectivity of this Act, formulate a program that would motivate migrant workers to plan for productive options such as entry into highly technical jobs or undertakings, livelihood and entrepreneurial development, better wage employment, and investment of savings.

SEC. 15. Establishment of a Migrant Workers Resource Center. - Within the premises and under the administrative jurisdiction of the Philippine Embassy in countries where there are large concentrations of Filipino migrant workers, there shall be established a Migrant Workers Resource Center with the following services:

- (a) Counselling and legal services;
- (b) Assistance in the procurement of medical and hospitalization services;
- (c) Information, advisory, settlement and community networking services; and
- (d) Institute a scheme of registration of undocumented workers to bring them within the purview of this

Act. For this purpose, the Center is enjoined to compel existing undocumented workers to register with it within six (6) months from the effectivity of this Act, under pain of having his/her passport cancelled.

The Center shall be staffed by the service attaches or officers who represent other Philippine government agencies abroad and, if available, volunteers from the Filipino community settled in the host countries. In countries categorized as highly problematic by the Department of Foreign Affairs and the Department of Labor and Employment and where there is a concentration of Filipino migrant workers, the government must provide a lawyer and a social worker for the Center. The Labor Attache shall coordinate the operation of the Center and shall keep the Chief of Mission informed and updated on all matters affecting it.

SEC. 16. *Migrant Workers Loan Guarantee Fund.* - In order to further prevent unscrupulous illegal recruiters from taking advantage of workers seeking employment abroad, the OWWA, in coordination with government financial institutions shall institute financing schemes that will expand the grant of pre-departure loan and family assistance loan. For this purpose, a Migrant Workers Loan Guarantee Fund is hereby created and the initial amount of One hundred million pesos (P100,000,000.00) from the OWWA is set aside as guarantee as a guarantee fund in favor of participating government financial institutions.

SEC. 17. *Rights and Enforcement Mechanism Under International and Regional Human Rights Systems.* - The Department of Foreign Affairs is mandated to make an assessment of rights and avenues of redress under international and regional human rights systems that are available to Filipino migrant workers who are victims of abuse and violation and, as far as practicable, pursue the same in behalf of the victim if it is legally impossible to file individual complaints. If a complaints machinery is available under international or regional systems, the Department of Foreign Affairs shall inform the Filipino migrant workers of the existence of such legal options.

III

THE LEGAL WELFARE COMMISSION

SEC. 18. *Creation.* - There is hereby created a body to be known as the "Legal Welfare Commission

for Migrant Workers" attached to the Office of the President and to be composed of a Chairman and two (2) Members to be appointed by the President of the Philippines who must be of proven competence and with at least ten (10) years experience as a legal practitioner, either in the government service or in private practice of law or both.

SEC. 19. *Terms; Salaries; Privileges.* - The Chairman and Members of the Commission shall be appointed for a term of six (6) years without reappointment and shall receive and enjoy the same salaries and privileges as the Chairman and Members of the Commission on Human Rights created under Executive Order No. 163, series of 1987.

SEC. 20. *Powers and Functions.* - The Commission shall exercise the following powers and functions:

- (a) To devise and set-up the appropriate legal system, structure and procedures that would provide immediate legal assistance and protection to Filipino migrant workers who are arrested, investigated or charged with civil, criminal or administrative offenses in the countries where they are working, or who have filed complaints against their foreign employers;
- (b) To investigate, on its own or on complaint by any Filipino migrant worker or any member of his family, any complaint or grievance said worker or member of his family has against an official or employee of any department, agency or office of the Philippine government whether here or abroad;
- (c) To adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court;
- (d) To establish close linkages and arrangements with the Departments of Labor and Employment and Foreign Affairs, the Philippine Overseas Employment Administration, the Overseas Workers Welfare Administration and other government agencies concerned, as well as with non-governmental organizations and associations of migrant workers, in order to ensure effective coordination and cooperation in the provision of legal assistance services to Filipino migrant workers;
- (e) To administer and manage the Legal Assistance Fund for migrant workers established under Section

20 hereof and authorize disbursements therefrom in accordance with the purposes for which the Fund was set-up;

- (f) To keep and maintain a record and inventory of cases and complaints filed by or against Filipino migrant workers abroad and regularly monitor the status and progress thereof and ensure that the workers are given adequate legal assistance and protection as provided under this Act;
- (g) To recommend to Congress and to the President legislative and administrative measures that the Commission deems necessary to protect the rights and promote the legal welfare of Filipino migrant workers;
- (h) To request the assistance of any department, bureau, office or agency of the government for the effective discharge of its functions and responsibilities; and
- (i) To exercise such other powers and functions as may be necessary to accomplish the objectives of this Act.

SEC. 21. *Staff.* - The Commission shall be assisted by a pool of lawyers from the Departments of Justice, Labor and Employment, and Foreign Affairs, the Office of Solicitor General and other government agencies concerned as may be assigned and detailed therein upon authority issued by the Office of the President.

The Commission may also appoint or hire additional lawyers and other technical and administrative personnel for the effective discharge of its functions, including the hiring of competent foreign lawyers to represent Filipino migrant workers facing charges abroad: *Provided*, That a Filipino lawyer shall be assigned to collaborate with any foreign lawyer so contracted to ensure that the rights of said workers are adequately safeguarded.

SEC. 22. *Legal Assistance Fund.* - There is hereby established a Legal Assistance Fund for Migrant Workers, hereinafter referred to as the "Fund," in the amount of One hundred million pesos (P100,000,000.00) to be constituted from the following sources:

P50 M from the Contingency Fund of the President

P30 M from the Presidential Social Fund

P20 M from the Welfare Fund for Overseas Workers established under L.O.I. No. 537, as amended by P.D. Nos. 1694 and 1809.

Any balances of existing funds which have been set aside by the government specifically as legal assistance or defense fund to help migrant workers shall, upon effectivity of this Act, be turned over to, and form part of, the Fund created under this Act.

SEC. 23. *Uses of the Fund.* - The Fund created under the preceding section shall be used exclusively to provide legal services to migrant workers in accordance with such guidelines and procedures as may be promulgated by the Commission. The expenditures to be charged against the Fund shall include the fees for the foreign lawyers to be hired by the Commission to represent migrant workers facing charges abroad, bail bonds to secure the temporary release of workers under detention, court fees and charges and other litigation expenses.

IV

COUNTRY-TEAM APPROACH

SEC. 24. *Primordial Concern of Philippine Embassies.* - The country-team approach, as enunciated under Executive Order No. 74, shall be the mode under which Philippine Embassies or their personnel will operate in the protection of the Filipino migrant workers as well as in the promotion of their welfare. The protection of the Filipino migrant workers and the promotion of their welfare, in particular, and the protection of the dignity and fundamental rights and freedoms of the Filipino citizen, in general, shall be the primordial concern of the Philippine Embassies that is superior to other diplomatic functions.

V

DEREGULATION AND PHASE-OUT

SEC. 25. *Comprehensive Deregulation Plan on Recruitment Activities.* - Pursuant to a progressive policy of deregulation whereby the migration of workers becomes strictly a matter between the worker and his foreign employer, the DOLE, within one (1) year from the effectivity of this Act, is hereby mandated to formulate a five (5) year comprehensive deregulation plan on recruitment activities taking into account labor market trends, economic conditions of the country and

emerging circumstances which may affect the welfare of migrant workers.

SEC. 26. *Gradual Phase-Out of Regulatory Functions.* - Within a period of one (1) year from the effectivity of this Act, the DOLE shall formulate a five (5) year plan on the gradual and partial or total phase-out of the regulatory functions of the POEA pursuant to the objectives of deregulation.

VI

MISCELLANEOUS PROVISIONS

SEC. 27. *POEA and OWWA Boards; Additional Memberships.* - Notwithstanding any provision of law to the contrary, the respective Boards of the POEA and OWWA shall, in addition to their present composition, have three (3) members each who shall come from the women, sea-based and land-based sectors respectively, to be appointed by the President in the same manner as the other members.

SEC. 28. *Report to Congress.* - In order to update Congress on the situation of Filipino Migrant Workers in foreign countries, the Department of Foreign Affairs and the Department of Labor and Employment shall submit an annual report on the following:

- (a) Working conditions of Filipino migrant workers;
- (b) Problems encountered by the migrant workers, specifically violations of their rights;
- (c) Initiatives/actions taken by the Philippine foreign posts to address the problems of Filipino Migrant Workers;
- (d) Changes in the laws and policies of host countries; and
- (e) Status of negotiations on bilateral labor agreements between the Philippines and the host country.

Any officer of the government who fails to report as stated in the preceding section shall be subject to administrative penalty.

SEC. 29. *Representation in Congress.* - Pursuant to Section 5(2) Article VI of the Constitution and in line with the objective of empowering overseas Filipinos to participate in the policy-making process to address

Filipino migrant concerns, five (5) sectoral representatives for migrant workers in the House of Representatives shall be appointed by the President on the basis of proportional representation from the regional distribution of migrant workers.

The nominees must have at least five (5) years experience as a migrant worker.

SEC. 30. *Exemption from Travel Tax.* - All laws to the contrary notwithstanding, the migrant worker shall be exempt from the payment of travel tax upon proper showing of proof of entitlement to the exemption as may be deemed by proper authorities.

SEC. 31. *Non-Increase of Fees; Abolition of Repatriation Bond.* - Upon approval of this Act, all fees shall remain at their present levels and the repatriation bond shall be abolished.

SEC. 32. *Appropriation and other Sources of Funding.* - The amount necessary to carry out the provisions of this Act shall be in the General Appropriations Act of the year following its enactment into law and thereafter.

A special LOTTO draw shall be undertaken, the proceeds of which shall be for the exclusive purpose of instituting a scholarship program for deserving immediate descendants below Twenty-one (21) years of age of bona fide migrant workers as may be determined by the POEA. The LOTTO draw shall be held on the commemoration of the Migrant Workers Day as may be designated.

SEC. 33. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations, or part thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 34. *Separability Clause.* - If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby.

SEC. 35. *Effectivity.* - This Act shall take effect after fifteen (15) days from its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved, _____

Senator Romulo: Mr. President, for the sponsorship speech, I ask that the distinguished Chairman of the Committee of the Whole, the Gentleman from Cebu and Bohol, Senator Herrera be recognized.

The Presiding Officer [Senator Mercado]: The Chair recognizes Senator Herrera.

SPONSORSHIP SPEECH OF SENATOR HERRERA

Senator Herrera: Thank you, Mr. President.

Mr. President, this afternoon at 1:30 p.m., the Committee of the Whole concluded its public hearings. We consulted and heard the views of 60 persons from government, nongovernment organizations, academe, recruitment and manning agencies and persons representing other entities which, in one way or another, are concerned with migrant workers. Hence, I am pleased to submit for consideration of the Senate Committee Report No. 999 containing Senate Bill No. 2077, entitled

AN ACT TO INSTITUTE THE POLICIES OF THE OVERSEAS EMPLOYMENT PROGRAM AND ESTABLISH HIGHER STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS AND FOR OTHER PURPOSES.

Fundamental to all the policies instituted herein is the clear and unequivocal position that overseas employment is not a means to sustain economic growth and achieve national development. In fact, we have stressed in the Declaration of Policies that the existence of the Overseas Employment Program rests solely on the assurance that the dignity and fundamental rights and freedom of the Filipino citizen shall not at any time be compromised or violated; hence, the goal of creating local employment opportunities and a deployment policy that only skilled Filipino workers shall be deployed and only to countries that guarantee their protection.

Furthermore, in recognition of the role of women in nation-building, POEA programs shall recognize the need and characteristics of women migrant workers.

The other salient features of the bill include:

1. Provisions strengthening the anti-illegal recruitment campaign such as:

- a) An expansion of the definition of "illegal recruitment" to include even licensees and holders of authority and the prohibited activities under

Article 34 of the Labor Code;

- b) An increase in the penalties imposed on persons involved in illegal recruitment activities;
 - c) Designating the Regional Trial Courts of the city or municipality where the complainants reside as the venue of illegal recruitment cases;
 - d) Free legal assistance to and automatic entitlement of victims of illegal recruitment under the Witness Protection Program;
 - e) Provisions of mandatory period for resolution of illegal recruitment cases;
 - f) A longer prescriptive period for the filing of illegal recruitment cases; and
 - g) Vesting the labor arbiters original and exclusive jurisdiction to hear and decide claims arising out of employer-employee relationship or by virtue of any law or contract involving migrant workers including damages.
2. Provisions of additional services for the protection and welfare of migrant workers such as:
- a) The issuance of travel advisories that will help individuals make and form an intelligent decision about overseas employment and to forewarn them of countries that consistently violate human and worker's right;
 - b) The establishment of an Emergency Repatriation Fund and the mandatory repatriation of underage migrant workers;
 - c) The facilitation by the DOLE of the reintegration of returning migrant workers into the mainstream of economic activities of the country;
 - d) The establishment of the Migrant Workers' Resource Center which will, among other functions, require the registration of all overseas Filipinos within six months from arrival in the host country under pain of cancellation of their passport; and
 - e) The creation of a Workers' Loan Guarantee Fund of P100 million by the OWWA to guarantee the loans that may be granted by GFI to workers and their families.

(3) The creation of a Legal Welfare Commission, an entity that will ensure the provision of adequate and timely legal assistance to displaced workers.

(4) The formulation of a comprehensive deregulation plan on recruitment activities and the gradual phaseout of the regulatory functions of the POEA pursuant to the objectives of deregulation.

(5) The appointment of additional members of the POEA and OWWA Boards who shall come from the women, sea-based and land-based sectors, respectively, one of whom shall be a woman.

(6) The appointment of five sectoral representatives for migrant workers in the House of Representatives on the basis of proportional representation from the regional distribution of migrant workers.

(7) The exemption of migrant workers from the payment of travel tax.

(8) Upon approval of this proposed measure, all fees shall be frozen and the repatriation bonds shall be abolished.

I do not wish to refer to this proposed legislative measure as the Magna Carta for Overseas Workers inasmuch as I am fully aware that much, much more must be done for our migrant workers and the overseas employment program as a whole.

I hope my Colleagues' support what I prefer to call the Proposed Migrant Workers Act of 1995.

Thank you, Mr. President.

The Presiding Officer [Senator Mercado]: The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2077

Senator Romulo: Mr. President, we shall have the interpellations and continuation of debate on this bill tomorrow. May I move that we, in the meantime, suspend consideration of Senate Bill No. 2077 until tomorrow at nine o'clock in the morning.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Romulo: Just to inform our Colleagues that we

resume sessions tomorrow, Thursday, at nine o'clock in the morning, Mr. President.

MOTION OF SENATOR ROMULO (Designation of New Members to the Bicameral Conference Committees)

Because of the resignation of four of our Colleagues, we have to reform the Senate panel in the ongoing Bicameral Conference Committees. Therefore, may I move that in lieu of the original Senate panel wherein our resigned Colleagues were members, may I propose the following Senate panel:

On Senate Bill No. 1984 on the Intercountry Adoption and the disagreeing provisions of the House bill, the Senate panel will be composed of Senator Rasul as Chairman, Senator Roco and the Minority Leader, Senator Maceda.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Romulo: On Senate Bill No. 252 and House Bill No. 12614, the Book Development Act, the following Senators be named: Senator Shahani as Chairman, Senator Alvarez, Senator Sotto and the Minority Leader, Senator Maceda, as members.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Romulo: On Senate Bill No. 1977 and House Bill No. 11614 on the Philippine Youth Commission, the following Senators be named: Senator Webb as Chairman, Senators Shahani, Sotto, Alvarez and the Minority Leader, Senator Maceda, and Senator Rasul as members.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Romulo: On House Bill No. 9426, the All Asia Airlines, the following Senators be named: Senators Mercado, Sotto and Maceda, as members.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Romulo: Mr. President, we shall resume our session at nine o'clock tomorrow. We shall have an all-day session to tackle both Senate Bill No. 2077, the Act to Institute the Policies of the Overseas Employment Program and Establish Higher Standard of Protection and Promotion of the Welfare of

Migrant Workers and For Other Purposes; as well as for Third Reading, the certified bill on Committee Report No. 998 on Proposed Senate Resolution No. 1143. We shall start our session at nine o'clock tomorrow morning.

SUSPENSION OF THE SESSION

I move, Mr. President, that we suspend this evening's

session until nine o'clock, tomorrow morning.

The Presiding Officer [Senator Mercado]: The session is suspended until nine o'clock tomorrow morning, if there is no objection. [*There was none.*]

It was 7:20 p.m.

RECORD OF THE SENATE

THURSDAY, MAY 25, 1995

May 24, 1995

RESUMPTION OF THE SESSION

At 10:05 a.m., the session was resumed with the Honorable Edgardo J. Angara, President of the Senate, presiding.

The President: The session of the Senate is resumed.

The Secretary will read the additional reference of business.

ADDITIONAL REFERENCE OF BUSINESS

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

The Secretary:

24 May 1995

Honorable EDGARDO J. ANGARA
Senate President
Senate of the Philippines
Senate, Manila

Dear Senate President Angara:

Pursuant to the provisions of Section 26 (2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1943 entitled

AN ACT PROVIDING FOR A SYSTEM OF ABSENTEE VOTING BY FILIPINOS ABROAD,

to meet the public emergency consisting of the need to put in place constitutionally mandated reforms in the electoral system to maintain social cohesion and avoid disruption and violence, and thereby ensure credible, honest, orderly and peaceful elections.

Best regards.

(Sgd.) FIDEL V. RAMOS

Honorable Jose de Venecia
Speaker
House of Representatives
Batasang Pambansa Complex
Quezon City

The President: Referred to the Committee on Rules. The Secretary.

Honorable EDGARDO J. ANGARA
Senate President
Senate of the Philippines
Old Executive Building
Manila

Dear Senate President Angara,

Pursuant to the provisions of Section 26 (2), Article VI of the Constitution, I hereby certify to the necessity of the immediate adoption of Proposed Senate Resolution No. 1143, entitled

RESOLUTION CONCURRING IN THE RATIFICATION OF THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES,

to meet a public emergency consisting of the need to provide additional, adequate, continuous and compassionate protection and safeguards to overseas Filipino workers as a necessary means of further protecting and promoting their rights and welfare as mandated under the Constitution.

Best regards.

(Sgd.) FIDEL V. RAMOS

Honorable Jose de Venecia
Speaker
House of Representatives
Batasang Pambansa Complex
Quezon City

The President: Referred to the Committee on Rules.

BILL ON SECOND READING S. No. 2077 - Migrant Workers Act of 1995 (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, yesterday, the Sponsor of

the bill, Senator Herrera, delivered his sponsorship remarks. Today, we are in the period of interpellations.

SUSPENSION OF THE SESSION

Mr. President, we have a reservation to interpellate from Senator Mercado, but, in the meantime may I ask that we suspend the session for one minute.

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

It was 10:07 a.m.

RESUMPTION OF THE SESSION

At 10:35 a.m., the session was resumed.

The President: The session is resumed.

Senator Romulo: Mr. President, for the interpellation on Senate Bill No. 2077, I ask that the Chairman and Sponsor of the Committee of the Whole, Senator Herrera, be recognized, with the Minority Leader, Senator Maceda, to interpellate.

The President: Senator Herrera is recognized with the Minority Leader, Senator Maceda to interpellate.

Senator Maceda: Mr. President, pursuant to the testimony in the Committee of the Whole, while I have read and signed this report, I have expressed some concern about the fact that while we can legislate responsibility and obligations on the part of government agencies such as the DFA, DOLE, and specifically POEA and OWWA, it is not possible to legislate a change of attitude, especially if it is institutional attitude, let us say, on the part of the DFA, where one could see that there is a clear resistance about its accepting the responsibility of having to assist in every way possible, even on police precinct level, nationals or specifically OCWs abroad. How will this particular bill assure a change or an improvement in the attitudes of the government personnel assigned overseas?

Senator Herrera: First of all, Mr. President, my distinguished Colleague is correct that there are certain matters that we cannot address by legislation. And he correctly pointed out how we can change attitudes. This is a matter that can be address perhaps administratively through programs of reorienting the perspective and the attitude of our government bureaucrats, especially in the DFA and some other government agencies.

I recall in the '70s, the University of the Philippines, under

the program of the Philippine Executive Academy, had training program for government executives. Part of that program is what they called the "barrio exercise" where they expose government executives who have strong urban orientation to the realities of the barrio.

This is one kind of a program that helped change the perspective of our government executives. Probably this can be done also by the DFA, the Department of Labor, and other agencies of the Government.

Now, in the policy statements of this bill, we strongly emphasized the change of this orientation to give priority in attending to the needs of our workers which, as the Gentleman correctly pointed out during the hearings, and together with some Members of this Body, that attitude of elitism must have to be changed now. We have to remember, to put in mind and in our hearts, that in the end, our mandate is really to serve our people. It is in that context that we hone our attitude as regards our work.

In this bill, we emphasized this important policy announcement, Mr. President.

Senator Maceda: I am trying to look for a statement in the bill to squarely institutionalize in this law the primary responsibility of the Department of Foreign Affairs of assisting Filipino nationals, especially OCWs abroad.

In the past, it has been characterized by buck-passing between the DFA and the DOLE, especially in areas where there are labor attaches and/or OWWA centers. At the same time, in the areas where there are no labor attaches, the DFA always pleads lack of personnel and resources to take care of this obligation and responsibility.

Could we clarify anywhere in this Act and make a categorical statement that it is the primary responsibility of the Department of Foreign Affairs, which is now in the Administrative Code, to protect and assist overseas contract workers, whether documented or not, and that it is the command responsibility of the Secretary of Foreign Affairs to see to it that these ambassadors and consuls abroad exercise this primary responsibility?

Senator Herrera: Section 24 of the bill, entitled Country-Team Approach - Primordial Concern of Philippine Embassies, states:

The country-team approach, as enunciated under Executive Order No. 74, shall be the mode under which Philippine Embassies or their personnel will operate in

the protection of the Filipino migrant workers as well as in the promotion of their welfare. The protection of the Filipino migrant workers and the promotion of their welfare, in particular, and the protection of the dignity and fundamental rights and freedoms of the Filipino citizen, in general, shall be the primordial concern of the Philippine Embassies that is superior to other diplomatic functions.

This is a very strong mandate, Mr. President.

Senator Maceda: Does the Gentleman believe that that is sufficient to pinpoint the primary responsibility of the Department of Foreign Affairs?

Senator Herrera: I think so, Mr. President. But in the period of amendment, if the Gentleman can still strengthen and make it more effective, then this Representation would be happy to accept the amendment.

Senator Maceda: Mr. President, I would like to commend the Sponsor for including under Section 30, Exemption from Travel Tax, and under Section 31, Non-Increase of Fees; Abolition of Repatriation Bond, which will have some minor amendments in the period of amendments.

For the record, I would just like to state that under ILO Convention No. 97, adopted on July 1, 1949 — this is something that we should have taken note of long time ago — Article VII says: "Each member for which this Convention is enforced undertakes to ensure that the services rendered by its public employment service to migrants for employment are rendered free."

The principle is well established. To begin with, as promised even by the incumbent President, it is the obligation of the Government to try to provide jobs or full employment to its people, and that, therefore, when individual citizens exert their own efforts to get themselves employed abroad, for that matter, which take them away from their families, it seems to be inconsistent and unfair to charge so many fees, bonds, premiums, taxes, impositions and clearances when, as this Representation has said, even the ILO has established the principles that these services should be rendered free.

I just want to put that into the record as a basis to support further the recommendation of the distinguished Gentleman that we have supported fully to try to remove as much of the fees that are being charged which, even in the Committee of the Whole, again, the witnesses have said that they have long been working for the abolition of such as the repatriation bond. They do not see any necessity for the medical coverage which has now gone

up to P900.00. At an average, they are now charging from P5000 to P6000 for these fees alone. Of course, we know that outside of this, the worker has to pay the recruiter legally and under the table huge amounts.

Senator Herrera: I agree with the distinguished Gentleman. In fact, in some countries, the amount that the worker has to pay, both legally and illegally, is so shocking that one cannot imagine whether these recruiters have really a conscience. It is for this reason that one of the recommendations in yesterday's hearing was for the Government to ratify ILO Convention No. 97. It is important that there should be a gradual phasing out of these charges and fees that our overseas workers have to pay. However, there are also certain realities that we cannot ignore. There are certain types of migrant workers who are receiving huge salaries because of their skills. Probably, these are the type of workers that may have to contribute to the administrative cost of allowing them to work abroad. But in principle, I fully support it, Mr. President.

Senator Maceda: As a matter of policy, and considering the corresponding interest of the other sectors, should we include in this legislation the obligation to appoint five sectoral representatives or migrant workers as a matter of law which the President is obligated to do?

Senator Herrera: I think it would be a very good policy statement that we should put in this Migrant Workers' Act the sentiment of Congress that we would like them to be represented by five representatives in the House. Although as we know, there is a constitutional provision on the appointment of sectoral representatives after 1998. So in effect, the representative will only be for the term of Congress 1995 to 1998.

Senator Maceda: As we have seen the position papers, there have been some suggestions that this bill is really just a "PR", an artificial bill only for purposes of salving the wounds out of the Contemplacion-Maga case.

Senator Herrera: In fact, Mr. President, first, at the very beginning I was really objecting to the idea of convening Congress into a special session just to tackle this bill not because this is not an important concern, but my feeling is that this is one bill on which we should allow the participation of the new Members of Congress who were elected in the last election.

Second, I thought that on many of the concerns, the problems of migrant workers can be addressed by administrative action. But, then, in the course of the hearing, in the course of the consultation, in the course of our study, I realized that, somehow, there is now a need to put in the law some of the important concerns of the migrant workers. And I am proud that

the Senate Committee of the Whole has created something that we cannot just dismiss as a mere press release.

Senator Maceda: Mr. President, may I refer now to this obligation being imposed on undocumented workers to register with the center. I am not so sure that I fully appreciate this requirement.

Is there no way of documenting workers or registering or locating workers without making it compulsory?

The secondary question is: Is the cancellation of the passport automatic simply because they did not register within six months?

Senator Herrera: Frankly, Mr. President, like the Gentleman, I had difficulty putting that in our bill because I thought that there should be some ways which do not carry the element of compulsion like, maybe, attracting them to register documents.

Unfortunately, in our consultation with the Department of Labor and some officials of OWWA, there are already programs which they have implemented to attract undocumented workers to come to the embassy in order to register. But we are not successful in this.

So, that is how this particular provision was introduced; that probably there should be some kind of an element of compulsion by giving them a reasonable period of six months. and, after that, or within that reasonable period, they really have to report to our embassy so that they can be accounted for. We can document especially those problems of abuses, exploitation but the victims are usually the undocumented. There is no way our Government will know of their problem until the abuses have already occurred.

So, probably an element of compulsion is necessary sometimes to remind of one's responsibility. In fact, that is a policy that one really has to report to his embassy.

But if there is a better way, as I see that there is a better way—I think our government agencies have tried all and now they are thinking about this matter of issuing OWWA card—I do not have to remind the Gentleman but, if he will recall, two years ago when we started the investigation about the anomalies in OWWA, the OWWA card came into the picture. That is the thing that I would like to avoid—the issuance of OWWA card. Only those with OWWA cards will be entitled to certain attention and benefits. This was being abused in Japan and even the printing of OWWA card was being abused. So I thought there should be some way of dealing with these problems.

What is important is that we have to document the undocumented workers because that is the only way we can minimize abuses. That is the only way we can protect our workers.

Senator Maceda: I agree with the distinguished Gentleman, Mr. President. But even the way it is worded here—I think, in all the long years that I have been in the Senate, this is the first time I have come across this strong language—it does not speak of imposing an obligation on the workers to register. It imposes an obligation on the Center which is “enjoined to compel”. It does not sound like an appropriate legislation for a democratic legislature to use.

Senator Herrera: We can improve the language. The intention is there. I think we really have to put a stop or perhaps minimize this problem of abuses, and that is the reason we would like to inventory the undocumented workers. We would like them to be within the coverage of OWWA so that they can enjoy the benefits of OWWA and can also be protected by our Government before they become victims of abuses.

How are we going to craft that provision, Mr. President?

Senator Maceda: Mr. President, I have been thinking about this since the Committee of the Whole hearings started, especially accepting the figure of 1.79 million more or less undocumented workers...

Senator Herrera: 1.8 million, Mr. President.

Senator Maceda: 1.79 million undocumented.

Senator Herrera: Just another information, Mr. President. I happened to have a dinner with the Secretary of Foreign Affairs. Since he was formerly assigned to Japan, I asked him about the problems of Japan as regards active undocumented workers there.

We will be shocked to know that there are several women workers in Japan from the ages of 15 to 19 years old and they have been there for the past four or three years. There is no way that we can monitor them, unless they report to the embassy.

How are we going to check on this, Mr. President? So there should be a way.

Senator Maceda: Yes, Mr. President, but it appears cynical. If they are willing to use falsified passports, violate our criminal laws and violate Japanese criminal laws, and if they are actually using spurious passports, even this provision is not going to effect the result that the Gentleman wants to effect.

Because these people could have cared less whether they reported to the embassy or not, whether their passport is cancelled or not, because they are actually using passports that have not been issued formally by the Philippine Foreign Affairs.

Senator Herrera: But at least, Mr. President, for those undocumented workers using valid passports with tourist visas, we can document them.

Senator Maceda: Exactly, there are those using valid passports issued by the Department of Foreign Affairs. I think it is just that we have not been a little diligent about this. Right there in the issuance of valid passports, the Department of Foreign Affairs can identify them. In fact, they can ask, "what is your purpose in going abroad?" "where are you going?"

We could see the pattern of people going to Japan and to the Middle East. As a matter of fact, probably, we have to consider a financial incentive. If they indicate that they are only going to one country, they will not be charged the full passport fee.

On the other hand, if they register with the embassy or the consulate outside the country, they can get a new passport, or they can get a renewal or extension of a passport without charge. Meaning to say, I do not think that the element of compulsion under pain of losing a passport is really going to achieve the purpose.

Senator Herrera: As I said, this is something that maybe for lack of new ways of documenting these workers, we have to insert this provision. But I disagree with that, Mr. President.

I feel that those workers using valid passports with tourist visas but whose intention is really to work abroad can be now compelled to register as a migrant worker.

I agree with the Gentleman that we cannot compel those who are really using fake passports, because of the fact alone that they are using fake passports. But the majority of these undocumented workers, especially those working in highly developed countries, like in Europe, enter Europe as tourists, they overstay, and then work. There are also workers from the Middle East who take vacation in Europe and then decide to stay there.

I recall that at one time, when I was in London, there were workers in the hotel. They were former workers in Saudi Arabia who spent a vacation in England and later decided to stay there. So even with their valid passports, now they are undocumented as far as our Embassy in England is concerned.

Senator Maceda: That is true, Mr. President. In fact, I

heard of the most imaginative example. I was told by PAL executives that they had recently, about six months ago, three stewardesses, who, it appears from the very beginning, planned it, applied for employment with PAL. As soon as they were scheduled and took their first flight to the United States, in this specific case, Los Angeles, they left a letter at the hotel stating "Sorry, Ma'am, but we are not coming back", and they just disappeared in the US.

So, even on that level, people are using every means to just go abroad and overstay abroad.

Senator Herrera: On the issue of compulsion, which I agree with the Gentleman, generally when there is compulsion, there is some kind of resistance. But on the other hand, we compel people to pay taxes, by prosecuting them for failure to comply with the payment of taxes. In this case, we are compelling them to register in order that they can get benefits.

Senator Maceda: Mr. President, I have raised the point and we will see, during the period of amendments, how we can think of an alternative that might be acceptable to the Sponsor.

Mr. President, on the matter of deregulation and phaseout under an article, may we be given specifics as to the intention of the Committee? Is the "five years" a firm commitment considering that that seems to be the official position of the Department of Labor and Employment under Sections 25 and 26?

Senator Herrera: Mr. President, the fact that we are putting this as one of the major policy changes now in our overseas employment program is a firm commitment. I think we should proceed toward that direction.

Senator Maceda: Would the distinguished Gentleman be willing to add language to the effect that at the end of five years from the formulation of the deregulation plan, the regulation of recruitment activities from government offices is going to be a fact?

Senator Herrera: Let me put it this way, Mr. President. As we deregulate, we have also to focus now on strengthening the agencies of the Government in charge of the protection of our overseas workers, like the labor attaches. So, instead of having the POEA now regulating in the case of recruitment, we look into the employment contract which, to my mind, is a complete failure because of contract substitution. As we deregulate, let us also strengthen the arms of the Government in charge of protecting the welfare and interest of the workers. So, probably, to that effect, we can reflect it in the section.

Senator Maceda: Mr. President, I am sure that there is a

majority opinion, if not a consensus, that to date, the performance of the POEA and the OWWA is way below expectations or standards. As a matter of fact, that was confirmed by the fact that no less than four or five Senators headed by the Senate President actually filed a bill that would, in effect, abolish the POEA and the OWWA and transfer them to a new agency.

It seems to me that this bill reaffirms the continuation of these two agencies in spite of their deficiencies. Does the Gentleman not think that this would have been a perfect opportunity at this time to phase out of existence the POEA and the OWWA and try a new commission to deal with their responsibilities?

Senator Herrera: I think consistent with the thrust of deregulation, and consistent with the policy that the overseas employment is not a permanent program, we can expect that in the near future, these government agencies, like the POEA and the OWWA, will really have to be phased out. This is one problem, Mr. President, that we cannot just solve in one strike. It means that we cannot just say that, "Tomorrow, you don't exist anymore." That is one.

The other side is that we should not lose sight of the fact that these problems now affecting the migrant workers constitute only less than 1 percent of the workers. The only problem is that, cases like that of Contemplacion, Maga, Siason, highlighted the problems of migrant workers. But if we look at the records, it is less than 1 percent.

Senator Maceda: That is true, Mr. President. But may I hasten to point out that it has been pointed out by position papers during the hearings that there has been long-existing vacancies in major positions at the POEA, for one, that somehow the President has not filled up, and that is something again that we cannot legislate.

Senator Herrera: Mr. President, let me correct the distinguished Gentleman on that.

I know that in the POEA's Attorneys Disposition for lawyers who are handling or hearing complaints of overseas workers, they are in need of new lawyers. Unfortunately, they cannot hire new applicants.

Senator Maceda: I am referring, Mr. President, to the statement of one of the papers that one commissioner, or whatever, was detailed as a labor attache in Washington. One was detailed in the Office of the Secretary, and that there was this request that these three ranking officials of the POEA be returned back to the POEA to reassume their responsibilities.

Senator Herrera: I really do not know who are these officials. In fact, I was taken aback when this was mentioned, Mr. President. I was trying to recall whether there are officials of the POEA who are assigned abroad. Probably, they are referring to the people in the Labor Centers, because the Labor centers are under the OWWA and the POEA. The people working there are not labor attaches. They are known as the Welfare Officers. The Labor Centers are not managed directly by the Department of Labor but by the OWWA. That was, I think, what was referred to by the Gancayco Commission.

Senator Maceda: At any rate, Mr. President, there seems to be a suggestion that important positions, both in the POEA and the OWWA, are left unfilled. Even if we add positions if these will also not be filled up, as I said, that is something that we cannot legislate.

Senator Herrera: I agree with the Gentleman, Mr. President, that is why going back to his original question whether these two offices are permanent offices—I do not think so. The NEDA's Development Program, the concept of overseas employment as a temporary program, will necessarily phase out also these offices in the future.

Now, as to the issue of creating a department or a commission on overseas employment, I would suggest that Congress make a further study on this regard during the regular sessions of the Tenth Congress. This is a matter which to me really needs a very extensive consultation and study, Mr. President.

Senator Maceda: Well, Mr. President, I will yield to the other Members of the Chamber who have arrived. As far as the other points are concerned, we will just take these up in the period of amendments as the corresponding sections come up.

Thank you, Mr. President.

Senator Romulo: Mr. President.

The President: The Majority Leader is recognized.

Senator Romulo: In the ensuing interpellations, may I ask that the following be recognized in this order: Senators Gonzales, Biazon, Roco, Alvarez, Shahani and Webb.

The President: Senator Gonzales is recognized.

Senator Gonzales: Mr. President, will the distinguished Chairman of the Committee of the Whole, as well as the Sponsor of this Committee Report, yield to some questions?

Senator Herrera: Gladly, Mr. President.

Senator Gonzales: Offhand, I would want to reassure the Gentleman, Mr. President, that as one of the coauthors of this bill and having signed Committee Report No. 999 without any qualification or reservation, I support this bill. My only purpose is to pave the way for some refinements and/or amendments that may strengthen more the provisions of this bill.

Senator Herrera: Thank you, Mr. President.

Senator Gonzales: Mr. President, I think this bill has adopted the so called "Selective Deployment Policy" of Filipino overseas workers, in the sense that only skilled Filipino workers are to be deployed and only to countries that guarantee their protection which is explicit under paragraph (f) of Section 2 of this bill. Is it not, Mr. President?

Senator Herrera: Yes, Mr. President.

Senator Gonzales: This policy however well-intended, cannot be realized with respect to the so-called "illegals" meaning, those who leave the Philippines on nonimmigrant visas to other countries or leave as tourists but end up as TNTs or workers doing odd jobs in other countries. Would that not be correct, Mr. President?

Senator Herrera: Yes, Mr. President. In fact, that is a major problem in the implementation of this policy.

Senator Gonzales: So far this bill contains no provision that would discourage them?

Senator Herrera: Discourage the

Senator Gonzales: Those who leave the country avowedly as tourists or holders of nonimmigrant visas but nonetheless their intention is to work overseas.

Senator Herrera: There are several provisions, Mr. President, that would discourage these workers. In fact, we will find in the succeeding sections that first, there is a provision on the matter of immediate repatriation of those underage workers who are working primarily in the entertainment industry in Japan. If upon findings of the government agencies they are underage, meaning, 15 or below — since there are many workers under this category — they are immediately repatriated. So this is one way of discouraging them to work illegally in other countries.

Second is the provision of compelling them to register in our embassy. This is one way of monitoring these workers so that — especially in areas where they are exploited — they can be advised and discouraged by our agencies. There is also a provision requiring our Department of Foreign Affairs and the

Department of Labor and Employment, in coordination with the POEA, to issue periodic advisories on the employment conditions of certain countries, the policies of these countries, the incidence of abuses, incidence of violations of human rights. These are among the provisions that would discourage workers who are vulnerable to abuses for lack of skills.

Senator Gonzales: I am aware of that, Mr. President. But, for example, insofar as the mandatory repatriation of an underage migrant worker as provided in Section 13 of this bill, this situation applies not only to those who leave the country without labor contracts, it also applies to those who had been legally recruited but it turned out later that actually they are underage.

Senator Herrera: The Gentleman is correct, Mr. President.

Senator Gonzales: And insofar as the requirement for registration, precisely because they are "illegals," they would necessarily wish to go underground. And it is only when they are in trouble that we come to realize their existence.

Senator Herrera: In fact, Mr. President, there are certain types of illegal workers who, from the start, entered the country as legal entrants being a tourist, or he may be a worker-entrant, or a tourist. Or he may be a worker in one country, and then transferred to another country as an illegal worker.

If there is the sanction of cancelling their passports, I think this will induce them to report to our Embassy because they will have problem if they do not have a valid passport.

Senator Gonzales: Some of them, Mr. President, live the life of the hunted and even of fugitives in the hope that they will not be discovered. Or somehow, some hope that amnesty laws may be enacted later, as in the case of Italy where on two occasions amnesty had been extended and which now make their stay in these countries legitimate.

On the other hand, they have a natural fear that if they register, then something bad will happen to them and that discourages them from undertaking any registration. Is that not the experience, Mr. President?

Senator Herrera: Not necessarily, Mr. President. In fact, this is now a matter of how we disseminate information and the kind of information that we have to disseminate to these undocumented workers.

Earlier during the interpellations of Senator Maceda, I emphasized that the primary purpose here is to protect workers. If they left as illegal workers because they are carrying a tourist

passport rather than a working passport, then, if they register they can be issued a working passport. In that case, they can now be enrolled with OWWA and we will know their whereabouts so that when they have problems, our government agencies abroad will at least be able to locate and provide them the necessary protection.

Senator Gonzales: Will registration, as herein, contemplated, legalize their otherwise "illegal" stay in that country?

Senator Herrera: That is one side of the purpose, Mr. President.

Senator Gonzales: I thought the question of legality of an alien staying in another country is determined not by his State of origin but by the receiving State.

Senator Herrera: We are referring, Mr. President, to the legality of the documents that they are carrying, not the legality as far as their stay in the country is concerned.

Senator Gonzales: Because of this policy of selective deployment, we are using the word "illegals" only for this purpose. Meaning, referring to those who had left the Philippines and entered a foreign country as tourists or as nonimmigrants where, in fact, they go there for the purpose of employment. That is the connotation that we wish to put as far as the term "illegal" is concerned. It is only for this purpose.

Now, are "illegals", in that sense, entitled to the protection and benefits under this bill?

Senator Herrera: Mr. President, this Representation is glad that the distinguished Gentleman raised this issue on whether we have the same understanding of the word "illegal".

The Department of Labor is trying to draw a line on this by using the word "undocumented" rather than using the word "illegal." So, this refers to the "undocumented workers", Mr. President, in the sense that they are not registered in our Government as overseas workers or their employment was not coursed through the regulatory office.

Senator Gonzales: It is in that limited sense that we are using the word "illegal" here. But it will make us more comfortable if we use the word "undocumented overseas workers".

Senator Herrera: We have to emphasize that in the bill during the period of amendments, Mr. President.

That is the reason we are enjoining the responsible Government office to see to it that these undocumented workers will

register so that they can be given the necessary protection by our Government agencies abroad.

Senator Gonzales: The trouble, Mr. President, is that sometimes, appropriate information has not been given to them and there is always a natural fear that when they go above ground instead of living underground, something bad may happen to them, and therefore, they have the natural refusal to register.

The fact, however, is that, as Filipino nationals, whether documented or undocumented, then they are entitled to the protection of our laws. Would that not be a basic principle?

Senator Herrera: The Gentleman is correct. However, in most cases, they come to the Government when they have problems already, and that is what we are trying to avoid.

Second, under the Overseas Workers Welfare Fund, it is only those who are contributors to the fund who can be entitled to the benefits. This is also one area that we would like them to be covered.

Third, I think it is important that we should have the records of all Filipino nationals or Filipino workers in a particular country. That to me is the primary reason why we really have to look for means to register them.

Our experience in the Middle East, if the Gentleman will recall, is that during the Gulf War we had a problem in repatriating the Filipino workers because we did not expect that there were so many Filipino workers there.

We cannot prepare effectively and continue just like that unless we know how large the Filipino population in a particular country is.

Senator Gonzales: I am torn between the right of every Filipino, who is staying in another country, to the protection of her government. I think that is basic. Whether he is documented or undocumented, regardless of his character, it is the bond of nationality that entitles him to the protection of his own country.

On the other hand, I realize, too, that there are affirmative actions being taken by the government to encourage them to register in order to make better and more effective precisely the protection to which they would be entitled from their country.

I agree that with respect to the OWWF, not being contributors thereto, they should not really benefit therefrom.

On the other hand, can they not argue that they are also remitting earnings or part of their earnings, even if they are

undocumented in other countries, and in one way or another the Philippines or its economy is also benefitting from them.

Senator Herrera: From the services of government in terms of protection, whether they are workers and remitting their income to the Philippines or not, they can always demand that service. But for certain programs of OWWA, which their contribution would qualify them to take advantage of that program, then he does not have the right to demand for it.

This Representation would like to view the requirement for them to register as it is the government's desire to service these workers and to provide protection to them. It should not be taken as a sort of something that they have to run away to.

The intention is for the government to know that they are there so that it can service them.

Senator Gonzales: That is correct, Mr. President. So that, in the final analysis, we ought to distinguish between the right to protection of our State from privileges accorded to those who under the law comply with its requirements pursuant to its selective deployment program. Now, I think, as far as the former is concerned, a Filipino national is entitled to that regardless of his status.

Senator Herrera: I do not think there is a debate on that, Mr. President.

Senator Gonzales: But as far as the latter is concerned, naturally, he must have complied with certain requirements of law that precisely establishes those privileges.

Mr. President, I heard the testimony of the president of the Philippine Contractors Association and he claimed that the deployment of Filipino construction laborers by Filipino employers should not in any way be curtailed but in fact should even be encouraged, because they are situated differently. Here, they do not have these problems of having a foreign employer. It is a Filipino-based construction company that sends and deploys them to other countries in order to undertake a contract work, usually a public works project.

Senator Herrera: In fact, under the present policy, Mr. President, if I am not mistaken, one can only be issued a service contract license — these are the kind of recruiters that the distinguished Gentleman is referring to — where they hire and deploy workers as their employees. This is one activity that is being encouraged by the Government. They have difficulty in getting license now as a recruiter. But for a service contractor, one can easily get a contract license because that is the program of Government.

Senator Gonzales: Considering that they are situated differently and there seems to be a recognition that the same should be encouraged, then, could we have a specific provision in this bill for that purpose? Otherwise, they may be covered by all the provisions here that may lead to a phase out of the exportation of Filipino labor.

Senator Herrera: Mr. President, what we are referring in the phase out program is that the exportation of Filipino workers will be deregulated by the Government.

Now on the ban of workers to work abroad, I do not think that can be done, Mr. President.

Senator Gonzales: What I am trying to say is that a part of our policy is to encourage corporate deployment of Filipino overseas workers or construction workers by Filipino-based companies.

Senator Herrera: That is now what is provided under the existing law and we encourage that. But we can, if only to emphasize it, lift that provision from the Labor Code and put it in the bill.

Senator Gonzales: Yes. I think that is advisable because then the law would be more complete. After all, many of the provisions of this bill are restatements of existing laws and existing policies. There ought to be no fear or resistance for doing it with respect to something admittedly that is outside of the evil which we propose to remedy under this bill, Mr. President.

Senator Herrera: In fact, Mr. President, just to complete the information, this is not only true in the case of the land-based, even on the sea-based.

Senator Gonzales: Yes, Mr. President.

Senator Herrera: Many of these manning agencies now are not just hiring seafarers for foreign vessels. They are themselves managing the vessels and they hire these people as their employees and this is also what is being encouraged now.

Senator Gonzales: That is very well, Mr. President, because we now come to realize after the hearings conducted by the Committee of the Whole that there is no uniform situation for all overseas Filipino workers. There are various categories of the same, and they should be treated as their own category would demand.

On the other hand, as far as the definition of "illegal recruitment" is concerned, it is not limited to licensed recruiters

or recruiters granted or holding authority or not; it is not the distinguishing character except as far as those which are not licensees or holders of authority, recruitment by them of Filipino overseas workers is already illegal recruitment.

Senator Herrera: Yes.

Senator Gonzales: But even a duly licensed recruiter can also be guilty of illegal recruitment, Mr. President.

Senator Herrera: Yes. In fact, Mr. President, this is already provided in the Labor Code. We lifted that provision of the Labor Code and incorporated it here.

Senator Gonzales: I am very interested in Section 10 of this bill that establishes the liability of both the principal and the recruiter for money claims and damages under a contract to be joint and solidary. The second paragraph is quite explicit on this particular matter.

It says here in the second paragraph of Section 10 that "the liability of the principal and the recruitment or placement agency and any and all claims under this section shall be joint and several."

Is this a new provision, Mr. President, or is this already an old provision of the Labor Code?

Senator Herrera: This is a new provision, Mr. President, and this is born from the fact that there are several cases now in the POEA where workers have no other recourse but to go after their recruiters. A very recent case is the case of Malaysia and Nigeria.

Senator Gonzales: I am happy to note that because even as of yesterday and up to early this morning, I had intended to propose an amendment of the same nature except that I found out that that this is already provided in Section 10, which made me wonder whether this is a mere restatement of an old provision of the Labor Code. As it turns out, it is a new one.

If it is new, this is a very significant improvement made under this bill. I join the Committee wholeheartedly in making this proposal, but we have to make some refinements.

Under the law on Contracts, only the parties to a contract can be bound by it. Whether the liability be single; whether it is joint, several or solidary, the fact is that only parties to the contract can be bound by the same. Here, we are making one who is not a party to a contract jointly and solidarily liable for all money claims under a contract in which he is not a party.

Senator Herrera: Yes, but the Gentleman must have to consider the circumstances in regard to overseas employment where we have no way, no recourse.

Senator Gonzales: Yes, Mr. President. The law cannot impair the obligation of contracts. That is explicit in our Constitution. Moreover, there must be privity to a contract to be liable under its terms.

How do we cure that? My point is this: Once a labor contract is submitted to the POEA for registration, the recruitment or the placement agency should already sign an undertaking holding itself jointly and solidarily liable with the principal as far as the money claims and damages under that contract are concerned so that he cannot be heard later on to say, "I am not a party to the contract, why hold me liable under its provisions?"

Senator Herrera: Right now, Mr. President, this is now part of the regulation of the POEA but we should strengthen it to make it as part of the law.

Senator Gonzales: Yes, Mr. President, and I think that the law should now explicitly require that the labor contract should contain this statement — a reiteration of Section 10 — that the placement or the recruitment agency is jointly and solidarily liable with the principal insofar as all money claims arising from that contract.

Senator Herrera: That is fine, Mr. President. I think we need that. What I am just trying to impart to the distinguished Gentleman is that this is now the regulation.

Senator Gonzales: But regulation is one thing, Mr. President.

Senator Herrera: Precisely.

Senator Gonzales: It may not be enough to overcome the requirement of privity of contract.

Senator Herrera: That is why I agree with the distinguished Gentleman that let us now translate this regulation as part of the law.

Senator Gonzales: Not only that. We should also provide under this provision that that liability shall not be affected by any changes or any new contract subsequently entered. The liability shall last until the expiration of the original period provided for in the contract itself that has been registered with the POEA.

Senator Herrera: What the distinguished Gentleman is

saying, Mr. President, is that even if the extension of the contract is done in the receiving country, there is an automatic inclusion of this provision in the contract.

Senator Gonzales: Yes, Mr. President, or even if for example, they change the contract, because that is the complaint of our OCWs. They enter into a contract here but when they reach their place of destination, a new contract is required to be signed by them.

Senator Herrera: Contract substitution.

Senator Gonzales: By substitution. Now, what we are saying is that notwithstanding the same, the joint and several liability of the recruiter or the placement agency subsists at least during the entire period of the contract registered with the POEA.

Senator Herrera: We would appreciate, Mr. President, if during the period of amendments, this can be presented by the distinguished Gentleman covering these two instances where there is an extension of the contract by the same employer, or when there is a substitution of contract.

Senator Gonzales: Substitution or modification.

Senator Herrera: Or modification, because there are also instances where a worker with a contract but before the contract expires and with the approval of the employer, he is employed with another employer and that contract is done outside.

Senator Gonzales: Now, how do we remedy the situation that in view of this joint and solidary liability of the recruiter or the placement agency yet when the time arises for the enforcement of that liability, he has no money to answer for it?

Senator Herrera: There is now a bond required by the POEA.

Senator Gonzales: Then by explicit provision of law, that bond should be answerable for the satisfaction of any judgment, Mr. President?

Senator Herrera: In fact, if the distinguished Gentleman will recall, Mr. President, that was the question raised by Senator Ople to the OWWA Administrator, whether there is already an experience where the OWWA confiscated the bond of the recruitment agency.

Senator Gonzales: Ang masama lamang diyan ay baka katulad ng mga bond sa Bureau of Customs. Katakut-takot ang bond, hindi naman nai-enforce.

Senator Herrera: Mr. President, that is also happening in the Department of Labor.

Senator Gonzales: Hanapbuhay lamang iyan sa insurance company but the insurance companies themselves cannot meet their obligations under the bond.

Senator Herrera: If we can only encourage the GSIS to be the insurer.

Senator Gonzales: Mr. President, would the distinguished Gentleman have any objection to a new provision that would prohibit officials and employees of the DOLE, especially those in the POEA and in the OWWA to engage in the recruitment business?

Senator Herrera: That is now prohibited but anyway, we can reiterate that.

Senator Gonzales: Is it in this bill, Mr. President?

Senator Herrera: It is not in this bill but I know it is prohibited, Mr. President.

Senator Gonzales: Because as far as punishment is concerned, I would want to expressly provide that principals, accomplices and accessories should be criminally liable for the acts or omissions made criminal under that Section. Sometimes, many of these officials and employees become coparticipants, if not principals, at least as accomplices and accessories.

Senator Herrera: We welcome that proposal, Mr. President which we will, during the period of amendments.

Senator Gonzales: Section 7 of this bill provides that the victims of illegal recruitment shall automatically be entitled to the Witness Protection Program, although that is far from the original intentment of this bill. I was the author of that bill. I was the Sponsor. This refers to the syndicated offenses. However, there are cases of illegal recruitments that can be done large scale by syndicates in which case the penalty is even life imprisonment under that section. So, probably, that can fall within the ambit and intention of the Witness Protection Program. But, does that not carry or impose upon us an obligation — on the part of Congress — to appropriate more funds for the Witness Protection Program being undertaken by the Department of Justice? These illegal recruitment cases are so many, Mr. President.

Senator Herrera: The distinguished Gentleman will be surprised, if he will check the records. While there are so many

complaints about this, there are only few illegal recruitment cases.

Senator Gonzales: Because they feed the complainants or victims with promises. Pera lamang naman ang pinag-uusapan dito. Sasabihin nila, "Babayaran ka namin. Kung ipapabilid mo kami, wala kang pagkakataong makasingil sa amin. Mabuti pa, bigyan mo kami ng pagkakataon na ikaw ay mabayaran."

Senator Herrera: That is one. The other is the hassle of filing a case. Many of these migrant workers are residing very far from Manila.

Senator Gonzales: I recall when I was Minister and later Secretary of Justice, we created a task force.

Senator Herrera: There is an existing task force.

Senator Gonzales: For the purpose of investigating and prosecuting these cases of illegal recruitment. That was the complaint also of our own investigators and prosecutors, that complainants are so eager to prosecute or to have a case investigated in the original instance. Later, they soften up and they do not show up anymore during the investigation.

Senator Herrera: Maybe because of the cost. Many of these victims of illegal recruitment, malaki na ang utang nila, mayroon pa ba silang pangastos during the prosecution?

Senator Gonzales: Probably, placing them under the Witness Protection Program which, at the very least, would assure them of their expenses when they come to testify during the investigation and during the trial will relieve the victims as far as that problem is concerned.

Senator Herrera: That is the intention of this provision, Mr. President.

Senator Gonzales: Thank you, Mr. President, and I thank the distinguished Sponsor for the time he has afforded this Representation.

Senator Herrera: Thank you.

Senator Biazon: Mr. President.

The President: Senator Biazon is recognized.

Senator Biazon: Thank you, Mr. President.

Would the distinguished Gentleman from Bohol and Cebu yield for some questions?

Senator Herrera: Gladly, Mr. President.

Senator Biazon: Mr. President, Section 5 categorizes the offense of illegal recruitment into two. First is plain illegal recruitment and a penalty is provided correspondingly. Then second, the offense of illegal recruitment as a form of economic sabotage. Again, there is a corresponding penalty provided for which is for life imprisonment, making illegal recruitment, if it is a form of economic sabotage, as a capital offense.

Mr. President, do we have a legal definition of economic sabotage in relation to illegal recruitment? There are offenses that by themselves per se would constitute economic sabotage, probably such as manufacturing and distributing fake currencies. Because of the gravity of the penalty, here which is calling for life imprisonment, it is important for us to really provide a definition of the elements of the offense that would constitute the offense of illegal recruitment as one form of economic sabotage and merits the imposition of life imprisonment.

So, Mr. President, do we have a legal definition of economic sabotage?

Senator Herrera: It is provided on page 5, Mr. President, under paragraph (n) which says:

Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage. Illegal recruitment is then committed by a syndicate if carried out by a group of three or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three or more persons, individually or as a group.

Senator Biazon: Yes. Mr. President, I think we have to provide still for a definition of the elements that would definitely make it very clear that the offense of illegal recruitment constitutes economic sabotage. Because here, if there is no clear definition, there can be a miscarriage of justice because what may have been intended as pure illegal recruitment by virtue of the definition of the Gentleman could be interpreted as one form of economic sabotage.

So, I think there is a need to clarify this point some more, in order that the possibility of a miscarriage of justice will be prevented.

Senator Herrera: The Sponsor would await with enthusiasm the proposal of the Gentleman during the period of amendments.

At this juncture, the Senate President relinquished the Chair to Senator Freddie N. Webb.

Senator Biazon: Mr. President, I am just asking for a clearer definition of the elements of the offense that would make illegal recruitment as a form of economic sabotage because the degree of penalties differ very greatly from one another. So if indeed, I am an illegal recruiter with the intent of sabotaging the economy, I can plead guilty to the lesser offense without a clear definition of the elements of the crime of illegal recruitment as a form of economic sabotage.

Senator Herrera: We would appreciate if in the period of amendments, as the Gentlemen said, he would like to add certain elements on the crime of economic sabotage.

Senator Biazon: Thank you, Mr. President.

Senator Herrera: May we put into the record that this bill is a consolidation of the bill authored by Senator Mercado on this matter.

Senator Biazon: Thank you, Mr. President.

The Presiding Officer [Senator Webb]: Thank you, very much.

Senator Roco: Mr. President.

The Presiding Officer [Senator Webb]: Senator Roco is recognized.

Senator Roco: May the Gentleman from Bohol and Cebu yield for some questions.

Senator Herrera: This Representation is certainly willing to answer any question from the Gentleman from Bicol.

Senator Roco: Mr. President, I have no problem with the concept of protecting migrant workers. In that respect, my questions should not be deemed to be an opposition. But as a lawyer, I am really trying to understand what is stated in the bill.

In other words, as I study the bill — although I asked for reading materials from the Secretariat two weeks before the suggested special session — we did get them only on the day of the hearings, it was difficult enough to catch up with the reading, and now, reading the report also after that inadequate study it becomes more difficult to understand.

My question initially is very basic, and I hope the Gentleman will bear with me. I tried to look at the provisions as a lawyer on how it adds protection to the migrant workers. In fact, that will be the first question.

If this bill is approved, how does it really improve the status of migrant workers? What are the immediate legal rights that a migrant worker will now enjoy that is not yet enjoyed under the present law? If there is no improvement in the status of the migrant workers rights, maybe there is no need for the bill.

If we approve this bill *in toto*, what then happens to the migrant worker? How is he in a better legal position than where he is now?

Senator Herrera: I am glad that the good Senator from Bicol and Bohol raised that point because that is really the heart of the whole exercise of preparing this bill. In fact, as I mentioned during the interpellation of Senator Maceda — that was also my attitude — why call a special session and work hard on this bill when many of these things can be addressed by administrative action or a matter of enforcement? But then, later reviewing existing policies and laws, there are indeed certain improvements that we can make.

Let me now start identifying what improvements or benefits the migrant workers can get or can avail of under this law.

First, we made it a very clear mandate now that the servicing of migrant workers should be the primary function of our embassies. This will completely change the perspective and the dimension of the activities of our embassies.

Second, we made it clear that the Government does not intend to perpetuate migrant workers. It is a very important responsibility of the Government to see to it that our migrant workers will be reintegrated into our economy in the future.

With that, this will also mandate the appropriate government agencies in providing that support of reintegration like training and retooling overseas workers.

Then on the issue of illegal recruitment under this bill now, this will make effective our campaign. There is an improvement in the campaign against illegal recruitment for various reasons. First, now the victim can even file the complaint in the place of residence which was not the case before. Second, Mr. President, there is now a legal service provided here in this bill that will afford not just free services to the workers but also additional support under the Witness Protection Program. Usually, there is failure to prosecute illegal recruitment, because of desistance or refusal of the workers, considering that there are certain burden that they have to assume such as cost of litigation, "pamasahe" — they stay here in Manila when cases are filed here.

There is also a provision, providing legal assistance now

under the Legal Welfare Commission when they have problems outside the Philippines.

Senator Roco: Yes. That seems to be definitely a new provision that adds to the status of the migrant workers.

Senator Herrera: Yes. As I mentioned earlier it was also the subject of interpellation by Senator Gonzales in the case of money claims.

Then, right now there is a mandate that our Embassy, our Department of Foreign Affairs must have to come out with advisory, periodic advisory — on the condition of work in certain places, incidence of violations, changes of policies so that potential or prospective overseas workers will know, and can anticipate what will happen in case they will journey to a particular country to find jobs.

In the case of unprotected underage workers, now they will be repatriated. In the case of undocumented workers, there is now a fund for repatriation. Then, there is also a mandate that in case of repatriation not as a result of war or *force majeure*, this will be shouldered now by the recruiter or the agency or rather the principal or the agency so that as a consequence of this, the repatriation bond which the workers are paying will be abolished.

So, that is one. Of course, there are other benefits here — to mention the Loan Guaranty Fund — ang nangyari ngayon many workers, migrant workers resorted to borrowing because they cannot afford to pay the placement fee. If one goes to Taiwan, he has to pay P45,000 to P75,000, so, they have to sell their carabaos or borrow money from loan sharks. Now, there is a Loan Guaranty Fund here where they can borrow at very reasonable interest guaranteed by the OWWA, Mr. President.

There is a provision here on the scholarship for the dependents of overseas workers.

These are among the provisions here that would provide improvements, and of course, the assurance that there will be no increase on the fees.

Senator Roco: Yes. I guess we could also say it has elevated to a continuing monitoring by Congress because of the reporting requirements.

Now, the first advantage stated in terms of the reorientation of the Department of Foreign Affairs, as I understand it from the hearing, and from the answers of the Gentleman, Mr. President, seems to indicate that we have resolved the policy issue of the Lady from Pangasinan as regards the role of DFA, whether they

will pursue their elitist or what was referred to as “elitist functions” as against the role of the DFA as a social welfare support agency.

Do I take it from the Gentleman that, in fact, in this law, we are now saying that the Department of Foreign Affairs will focus among its higher priorities the need to act as a social welfare support agency?

Senator Herrera: There is now a mandate on this, Mr. President. I suppose this will trigger a lot of adjustments and programs in the DFA. That is why, in the earlier interpellation, I mentioned that I recall during the '60s and the '70s that there was this program at the University of the Philippines by the Philippine Executive Academy for government executives. As part of the program, they have this barrio exercise in order that these government executives will always understand and appreciate the realities in the rural Philippines, not just meeting always with executives in the private sectors or the “elitists” in the performance of their jobs. Programs like these, I think, will be triggered as a result of this.

Senator Roco: If this then is the mandate that we are suggesting to the DFA, what, in the view of the Gentleman, will be the guideline of the DFA officials as regards their relations with Filipinos who are illegally staying abroad?

To be concrete, if a Filipino migrant worker is totally illegal in Italy, what is the Philippine Embassy in Italy supposed to do about him? Get him legalized? Report him? Try to deport him? What should be the attitude of the DFA for such a migrant worker?

Senator Herrera: It is to always assist the workers. One is the matter of documenting him, in order to legitimize his being a worker in that country. In fact, that is one of the mandates under this bill. In effect, Mr. President, that should not give the Department of Foreign Affairs officer the idea that because he is undocumented or an illegal entrant, he should be discriminated and treated differently from the documented and legal entrant. What is important is that he should protect him because he is a Filipino national and help him legalize his activities in that country.

Senator Roco: I share the view of the distinguished Gentleman, Mr. President.

In the few instances though when I have seen this problem arise in some embassies, they seem to take the position that they cannot subvert the law of the host country. Because a man is an illegal entrant in a certain country — I am not referring to Italy in particular — they seem to feel that since they are representing

the sovereign Republic of the Philippines there and they are supposed to be law-abiding, if a Filipino is therefore in an illegal situation, they are constrained by Italian law to do something about it so that the Italian authorities are guided to the illegal Filipino. Based on the answer of the Gentleman, Mr. President, this kind of attitude will vanish forever when we pass this law.

Senator Herrera: Well, we do not expect that it can happen that soon but, at least, there is now a policy direction. But let me emphasize, also so that this can be reflected in the record, that it does not mean that we have to condone or protect them when they commit criminal acts in these countries. That is why I always phrase it that these undocumented workers should be related to their work.

I would say that this will lead to sort of an overhaul in the changing of the attitude of our people in our overseas offices of the Government.

Senator Roco: It would also encourage the embassies then to be some kind of a safehouse for Filipinos. But when this happens, Mr. President, in terms of our own relations with other countries, will the host country not feel offended that our embassies will now be a safe haven and, rightfully so, will be a safe haven for the migrant workers who got in illegally?

Do we not have now a problem of diplomatic relationships?

Senator Herrera: I can see that problem. In fact, this was emphasized by the Secretary of Foreign Affairs in yesterday's hearing with Senator Shahani. This is something also that we really have to consider, our relation with the host countries.

So, things like this really needs a very careful handling. But I think what is important is that when these illegal or undocumented workers meet problems there when they are charged of any crime or when they have problems with their employers, we have to make sure that at least they are fully protected in the sense that due process is accorded to them.

We do not want to condone criminal acts but they should be given due process. When their gripes or their complaints are legitimate, we should also be able to effectively address these problems in dealing with the host countries or with their employers in these countries, Mr. President.

Senator Roco: I agree, Mr. President. This leads me precisely to my concern, that the impact of this bill as explained to us now is so far reaching even in terms of diplomatic relations of the Philippines. That if we approve it soon, even the DFA will not be in a position to understand its proper role, so that they will find themselves either lost in the new law — because they will

violate the law for lack of understanding — or they will find themselves committing illegalities for which we now, let us say the illegal Filipino in my example in Italy, can sue DFA personnel because when he needed documentation or whatever to cure a violation of Italian law, the DFA was not able to help. And it does bring me to wonder whether such a major and drastic repositioning of foreign affairs direction has been given sufficient time. Because from what I heard from our guests, they are not ready to reposition their thinking on the matter.

Senator Herrera: The problems of migrant workers, especially the undocumented migrant workers, is not a new phenomenon. This has existed for several years already. I think it is about time that we tell the DFA and the other agencies that they better shape up in relation to the present requirements of their functions rather than keep on waiting and waiting until they will be prepared. I do not think they will be prepared, if that will be our attitude, Mr. President.

I think it is about time now that we really mandate this in a legislation; that they have to do something to change the attitude and the way they function as officials of the foreign service.

Senator Roco: Let me then pursue, Mr. President, to its logical conclusion my assumption. If that is then the mandate of the law, then will my example of an illegal undocumented Filipino in Italy a cause of action against a DFA personnel who does not help him get legalized in Italy?

Senator Herrera: This is a policy framework that we are trying to design for our overseas employment program.

There is a provision in the bill, Mr. President, where we require, as a matter of responsibility, on the part of the undocumented workers to register and to enjoin our foreign service office to take the initiative of locating and registering these workers. Because the problems affecting the migrant workers, Mr. President, are usually those of the undocumented workers. This particular provision must be viewed from the standpoint that the intention is for the Government to serve and protect these people.

Senator Roco: We now go to the Declaration of Policies, since that was where the Gentleman from Bohol and Cebu had brought us.

In Section 2, Mr. President, I can understand and appreciate paragraph (a). I do not understand why paragraph (b) is stated. Maybe this should be explained because it seems to be a mouthful and very difficult to understand in interpreting the law. The Declaration of Policies is normally to guide us in interpreting the law. And when we read paragraph (b), it becomes very difficult.

(b) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at all times, endeavor to uphold the dignity of its citizens, in general, and Filipino migrant workers, in particular.

I know that they all seem to be unobjectionable, but I do not know why it has to be here. The different elements of the statement are in the Constitution, and I do not know what we are trying to impart in terms of intent. So what does this add to the bill, if it adds anything?

It is a very long sentence and very difficult to interpret. Let me read it to the Gentleman:

(b) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states,....

Senator Herrera: Maybe we have to view this as a result of the incidence of Flor Contemplacion. But I agree with the Gentleman that this can be toned down.

Senator Roco: Maybe that should be, and it will be simpler to interpret.

Senator Herrera: In the period of amendments, Mr. President, we will see to it that this will be simplified.

Senator Roco: Yes.

In paragraph (c), line 17, it is also very difficult.

While recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, the State does not promote overseas employment as a means to sustain economic growth and achieve national development. The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizen shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development.

Senator Herrera: Mr. President, this is merely emphasize-

ing that the overseas employment program is not a permanent program and that the more stable solution to the problem of the overseas employment is really the development of our own economy. So that the mandate of the Government is to reintegrate these migrant workers in our own economy. We will find in the related provisions the requirements for free access to training and retooling by overseas workers as part of this preparation for the reintegration.

Senator Roco: I think the explanation of our good Chairman is even better than the provision. It might be better to just say that the overseas employment is a temporary policy rather than the way it is phrased. I am sure the staff of the Gentleman can put this together.

Senator Herrera: We will do that during the period of amendments, Mr. President.

Senator Roco: In "(d)", when we refer to free access to the courts and quasi-judicial bodies, are we referring to Philippine courts here or courts abroad?

Senator Herrera: Philippine courts, Mr. President. That is why the Gentleman will find that there is a provision here on free legal services. This is more urgent in the case of illegal recruitment cases where workers are discouraged to prosecute cases like these for various reasons. Many of these reasons, of course, are problems of lawyers and cost.

The other problem, let me just pursue this a little further, Mr. President, is: Under the present setup in the POEA, they have lawyers who have jurisdiction on cases filed by these migrant workers, contract violations, et cetera. Now, we are also transferring this jurisdiction and locating this to the National Labor Commission. The problem in this present office is that no lawyers are applying for this position because they are not well-paid; the salary scale is too low. It will take several years before they can have the final decision. We thought we eliminated them all these years, and all labor-related laws are now located in one body.

Senator Roco: Are we saying, Mr. President, under this provision, that there had been instances of a Filipino migrant worker who, while in the Philippines, was denied access to courts and quasi-judicial bodies?

Senator Herrera: For reasons of poverty, Mr. President.

Senator Roco: Because we are referring to migrant workers, so they may be migrant workers while in the Philippines.

Senator Herrera: Some of them are being repatriated...

Senator Roco: So this provision is in support of the other implementing provisions on legal aid.

Senator Herrera: In regard to support to foreign courts, we have this provision of Legal Welfare Commission, Mr. President.

Senator Roco: In "(f)", we talk of deploying only skilled Filipino workers only to countries that guarantee their protection, and this is enumerated here. But the way it is mentioned, it would seem that all countries can qualify and we are articulating a policy of deployment to certain countries under certain conditions.

Senator Herrera: Let me explain this. In effect, we are talking of selective deployment than as a policy that we should deploy skilled workers. But it does not mean that we have to ban the deployment of unskilled workers immediately. This particular provision now would mandate the appropriate government agencies to provide training to our overseas workers first, so that they have the skills and therefore they can command a more remunerative jobs. Second is that their skills are also their protection.

The records will show that skilled workers are less vulnerable to abuses and exploitation. So, it has to be viewed from that dimension.

As pointed out during the hearing by no less than the father of overseas employment, Senator Ople, when we ban the deployment of unskilled workers, we have a vast army of unemployed immediately in the country, because majority of these migrant workers are either unskilled or semi-skilled.

Senator Roco: As I understand it, Mr. President, the two elements here are selective deployment and skills development. But it does seem to restrict them the right to travel. How shall we then, in this bill, address the restriction of the right to travel since I am under the impression that any Filipino, whether he wants to be a migrant worker or not, is guaranteed the right to travel and so he can go anywhere he pleases as long as he can probably afford the ticket and he is given a visa by the country? How do we address then the possible objection?

Senator Herrera: Mr. President, this does not mean that they will be restricted to travel. In fact, we will find that there is also a provision here for those undocumented workers where many of them travel as tourists. Once they are in the country of destination and they decide to work there, our Government is now mandated to locate them and include them as among those documented workers.

Senator Roco: Yes. Thank you, Mr. President.

Now, the definition of "illegal recruitment", was there a conscious desire to delete reference to placement? I was looking at the Labor Code, and the original definition refers to illegal recruitment and placement and some reason. Maybe, the distinguished Gentleman would want to share with us the reason. This is deleted from the definition now.

Senator Herrera: Mr. President, this particular section is actually lifted from the Labor Code. We will check on that, because this is a reiteration of what is provided now in the Labor Code.

Senator Roco: There is one thing I do agree with. Most of it is lifted from the Labor Code. Maybe, I have an outmoded Labor Code that I am looking at, but it came from POEA. It seems that the critical element here is licensing. It says that all these illegal recruitment acts defined occur, "when undertaken by a non-licensee or non-holder of authority."

Senator Herrera: No, that is no longer true here. We have modified it.

Senator Roco: I am sorry. I am just looking at line 31.

Senator Herrera: So even those who are licensed or holders of the license can still be charged of illegal recruitment, Mr. President.

Senator Roco: I am sorry, Mr. President, I missed that. But just for my guidance, where do I find that provision? Because, it says, "shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring workers and includes referrals..."

Senator Herrera: It is on page 4, lines 1 and 2.

Senator Roco: Yes.

Senator Herrera: It says: "It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority."

Senator Roco: "...whether a non-licensee, non-holder, licensee or holder of authority." All right.

Now the departure from the present definition, Mr. President, is that all these proscribed acts will be criminal whether or not the person doing the act has a license or is a holder of authority.

Senator Herrera: I am glad that the distinguished Gentleman has raised this, Mr. President, because there is really an

almost universal clamor for expanding those who can be charged with illegal recruitment. Many recruiters are also charging exorbitant fees.

Senator Roco: For purposes of guidance later on, for whoever may be reading the transcript of this proceeding, would our good Sponsor explain the meaning of paragraph "(d)", on page 4, starting line 14, especially the provision "...unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment."

The reason I am asking this, Mr. President, is, if my memory is correct, there are provisions in the Civil Code which allow people to guide their actions according to contract. In this particular case, when does this prohibition occur? When is a person trying to liberate a worker from oppressive terms and conditions? What exactly does that mean? Because if it is happening in the Philippines, if there are oppressive terms and conditions, there must be a violation of a labor law somewhere. If it is happening abroad, what legal standard will apply — the Philippine standard of oppressive terms or the Saudi Arabian standard of what may be an oppressive term? Could this please be explained?

Senator Herrera: I suppose, Mr. President, that there must be decisions of the courts which define "oppressive terms". I will ask my researcher to dig into this further in order that we can be guided if there are definitions as to what are considered "oppressive terms" as defined by our courts.

Senator Roco: Yes, Mr. President. Again, just a legal issue. This prohibition if committed by some person who is licensed or nonlicensed, does this preclude prosecution, for instance, based on the Penal Code, just as it says, "To engage in the recruitment or placement of workers in jobs harmful to public health and morality...?"

Again, this is purely for the guide of our workers. Will this mean that when we approve this the remedies based here will exclude possible prosecution under other laws?

Senator Herrera: This is now a criminal case, Mr. President. We are talking of a sort of civil case.

Senator Roco: Will this be in addition to the Penal Code or other laws, or separate, or will this take the place?

Senator Herrera: This will take the place now.

Senator Roco: This will take the place. May the good Gentleman, Mr. President, want to reconsider that so that we make it very clear that all the penal provisions for these acts,

will be in addition to any other penal provision if there is any other existing law. I am just referring to the difference because we have an enumeration of other prohibited acts, but are we not better off if we can prosecute under this or under the Civil Code? If there are other existing laws, we also prosecute under them?

Senator Herrera: We shall entertain that during the period of amendments, Mr. President.

Senator Roco: Mr. President, I hate to request for continuance but I have a small appointment at 12:30. Will it be all right since the Gentleman, even when I arrived at 10:30 this morning, was already working? May we have a break until 12:30.

Senator Herrera: It is already 12:30.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Webb]: The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2077

Senator Romulo: Mr. President, I move that we suspend consideration of Senate Bill No. 2077 until three o'clock this afternoon.

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

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, this afternoon we shall take up the International Agreement on the Protection of Migrant Workers, but we will continue with the interpellations on this bill, Senate Bill No. 2077.

Mr. President, I move that we suspend our session until three o'clock this afternoon.

The Presiding Officer [Senator Webb]: Is there any objection to suspend the session until three o'clock this afternoon? [Silence] There being none, the session is suspended until three o'clock this afternoon.

It was 12:34 p.m.

RESUMPTION OF THE SESSION

At 4:22 p.m., the session was resumed with Senator Freddie N. Webb, presiding.

The Presiding Officer [Senator Webb]: The session is resumed.

BILL ON SECOND READING
S. B. No. 2077 - Migrant Workers Act of 1995
(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 Presiding Officer [Senator Webb]: Resumption of consideration of Senate Bill No. 2077 is now in order.

Senator Romulo: We are still in the period of interpellations, Mr. President. I ask that the distinguished Chairman of the Senate Committee of the Whole, Senator Herrera, be recognized.

The Presiding Officer [Senator Webb]: Senator Herrera is recognized.

Senator Romulo: Mr. President, for the first interpellation this afternoon, I ask that the distinguished Senate President Pro Tempore, Senator Shahani, be recognized.

The Presiding Officer [Senator Webb]: Senator Shahani is recognized to interpellate Senator Herrera.

Senator Shahani: Thank you, Mr. President.

Mr. President, I wonder whether the Chairman of the Committee of the Whole would entertain some questions from this Representation.

Senator Herrera: I am glad to answer questions, Mr. President.

Senator Shahani: Mr. President, I would like to say at the outset that I am indeed happy that the Congress of the Philippines is finally coming up with the Magna Carta for Overseas Contract Workers.

In instituting this bill, however, it is important that it is not only the sending country which observes the rights which we have enunciated in this bill. But more important, we have to make sure that the host country will also recognize these rights embodied in our laws.

How shall we ensure, Mr. President, the applicability of Philippine laws concerning the rights of our migrant workers in the receiving countries?

Senator Herrera: Mr. President, first of all, we have to accept the limitation of the applicability of our laws because our laws are only applicable within our jurisdiction. However, this protection and respect of our laws can be accomplished if we succeed in entering into a bilateral agreement with the receiving country. That is why in our Statement of Policy, we gave priority to the deployment of Filipino workers to countries where we have bilateral agreement or countries which are signatory to the United Nations' Convention on Migrant Workers.

Senator Shahani: May I know, Mr. President, with how many countries do we have bilateral agreements on the protection of our overseas workers?

Senator Herrera: If I am not mistaken, Mr. President, there are three countries which we have bilateral agreements. And I think in the past, we had bilateral agreements with some other countries, unfortunately, we had not renewed them not because of lack of initiative on our part. It is because the policy or the attitude of these countries is that by entering into bilateral agreements with us, they feel that there is also a compulsion on their part to extend bilateral agreement with other countries.

Senator Shahani: This is why, Mr. President, I feel that the passage of a bill like this is really just one half of the story. We may say that these are the rights which we expect to be given to our overseas workers, but as the distinguished Sponsor says, there are only three countries with whom we have bilateral agreements. So, that is still a very limited protection to our OCWs.

Senator Herrera: Not necessarily, Mr. President, because while it is true that we have only limited bilateral agreements, there are countries, even in the absence of bilateral agreements in their own system, that have protection of migrant workers and that we have to recognize it.

The other, Mr. President, is that in many countries where we also have Filipino workers, like in the case of many European countries, or even in the case of Hong Kong, there is a positive attitude and action on the part of their governments to protect the welfare and interest of the migrant workers, although we do not have bilateral agreements with them.

Senator Shahani: Does the distinguished Sponsor not think, Mr. President, that our country, even if this bill will be signed into law, should continue to persevere in having bilateral agreements with the other countries because, really, a law like this is just half of the story?

Senator Herrera: I fully agree with the distinguished Lady Senator and in fact in this bill, there is a strong exhortation for

taking the initiative of entering into bilateral agreement with receiving countries. It is a very important mandate in this bill. That is why, one of the priorities is to deploy Filipino workers only to countries where we have a bilateral agreement.

Senator Shahani: Mr. President, connected with the issue of jurisdiction, because we are really going beyond our shores here — and I am glad to see that this bill before us talks about the establishment of the Legal Welfare Commission which I believe was taken from the bill proposed by Senator Ople — may I know what rights our lawyers have to represent our OCWs in court litigation in other countries? How, in fact, can we provide legal assistance to our OCWs if our own lawyers have no legal personality to appear before foreign courts?

Senator Herrera: The Lady Senator is correct, Mr. President, that there are certain legal restrictions — depending on the country — on the practice of law profession. But one way of providing legal services to our workers is to enter into a contract with a law firm in the receiving country, and while they will be handling the cases of our migrant workers, it should be in close consultation and coordination with our government representative.

I suppose under this bill, it will be the Legal Welfare Commission that will be supervising the handling of legal cases of our migrant workers, although they might be hiring foreign lawyers.

Senator Shahani: Is it not true, Mr. President, that there are many groups of human rights lawyers all over the world who are willing to defend the rights of workers and they do not have to be commercial lawyers? There is a network of human rights lawyers all over the world. In the same way, I know that the rights of the Japayukis in Japan have been defended by Japanese human rights lawyers.

Senator Herrera: Yes, Mr. President. I confirm that there are several human rights lawyers — in fact, nongovernmental organizations — that are only too willing to cooperate with our Government in the pursuit of protecting the rights and the welfare of our migrant workers. That is why, in this bill, there is a policy enunciated to consider these nongovernmental organizations and organizations, like the ones mentioned by the Lady Senator, as a sort of a partner of our Government in the pursuit of protecting our own migrant workers.

Senator Shahani: Mr. President, I notice that on Section 24, there is reference here to country-team approach, and I guess this is a multilateral-agency approach. May we know what agency is responsible for the welfare of the OCWs abroad?

Senator Herrera: In this concept of country-team ap-

proach which is now being institutionalized under this bill, since this is a program initiated by the Executive Department, the Department of Foreign Affairs, through our Ambassador, is supposed to be the head of this country-team approach.

Senator Shahani: I wonder how practical that is, Mr. President. If the Gentleman remembers during the Gulf War, it was actually the Secretary of Labor who was touring the Middle East and “calling the shots” so to speak. Does the Gentleman think that that is proper?

Senator Herrera: I think it is about time that after the lesson we derived from our experiences of the Gulf War and various contingencies we experienced in the Middle East and other parts of the world, it is proper that we have this country-team approach. Since the Ambassador is the representative of our President in these host countries, logically it should be the Ambassador who should head this team and responsible for the performance of the function of our Overseas office.

Senator Shahani: Does that mean that it is the Department of Foreign Affairs then that should raise the money for repatriation? It is all right if we have, maybe, one or two, but suppose we have 50 or 100 where the regular budget of the Embassy is not adequate for massive humanitarian operations?

Senator Herrera: I am glad that the distinguished Senator mentioned this matter, Mr. President, because in this bill we have allocated repatriation fund of about P100 million. At the same time, we have also identified as to who is responsible for the repatriation of the documented workers. In this bill, it is the responsibility of the principal and the recruitment agency to shoulder the cost of repatriation.

Senator Shahani: But who administers the Repatriation Fund in the Government, Mr. President?

Senator Herrera: The Repatriation Fund will be administered by the OWWA since the funds will be taken from the OWWA budget.

Senator Shahani: And the distinguished Senator is certain that the Philippine Ambassador will automatically be given the adequate funds in time of emergency, for instance, because that is the important thing. I mean there are times when action has to be done so quickly and no one really knows who is responsible for what.

Senator Herrera: I would agree with the distinguished Senator that this is more of an administrative matter. But since the mandate of this bill when it becomes a law is that the one responsible is the Ambassador, I suppose that he should have the

immediate access to this fund.

Senator Shahani: Mr. President, during the debate on this important piece of legislation, much was said about the function of a Philippine Embassy abroad. I see here stated in Section 24, and this is on page 15, to the effect that:

The protection of the Filipino migrant workers, the promotion of their welfare, in particular, and the protection of the dignity and fundamental rights and freedoms of the Filipino citizen, in general, shall be the primordial concern of the Philippine Embassies that is superior to other diplomatic functions.

May I know, Mr. President, the reason for establishing a Philippine Embassy abroad?

Senator Herrera: Let me first explain the import of this particular provision, Mr. President.

This provision is more relevant in countries where the primary activities of our Embassy are really in dealing with our overseas workers because of the concentration. There is a large number of Filipino migrant workers in these countries. That is where the superiority of the function of seeing to it that the protection of the dignity and fundamental rights of our migrant workers is a high priority.

As to the question of the primary purpose of putting our Embassy in a particular country, this is of course to take care of the political trade and commercial relationship with that particular country. But there is also the other fundamental function which is to take responsibility for the protection of Filipino nationals in this country.

I can anticipate, Mr. President, that this mandate of giving high priority over other diplomatic functions to the servicing of our Filipino workers in these countries is one that is a bit controversial. But let us face the reality squarely. We are dealing with human lives. These are the contributions of our Filipino migrant workers not only as sort of goodwill ambassadors but also to our economy.

Putting these factors, together with other factors, would justify the mandate, especially in countries where we have large concentration of workers that this particular function should be superior or should be given priority over the other functions.

Senator Shahani: Mr. President, let us say we want to establish relations with the Kingdom of Saudi Arabia. We ask the Saudi Arabian authorities that we want to establish an embassy in their own territory. Is it just then to say we want to

establish relations with the Kingdom of Saudi Arabia just because the most important reason is that we want to protect the rights of our workers? How would that sit with the Saudi Arabian Government? After all, the relationship, the development of good and harmonious relations with the host country is really a very important matter. That is why we need permission to enter the country. That is why we ask diplomatic immunity for our diplomats.

In other words, there is a unique relationship in bilateral relations. We just do not go to a country and say, "We want to protect the rights of our workers that is why we are here."

Mr. President, I would like to make it clear. Of course, I am for protecting the rights of our citizens everywhere. But I do not think it would also sit well with the receiving country if we tell them that this is why we are putting up an embassy. They may as well say, "Why don't you put up a labor office in our country?" Why put up an embassy which is also there to develop friendly and harmonious relations with the host country?

Senator Herrera: I do not think we have a quarrel on that, Mr. President. The putting up of an embassy is not solely anchored on the fact that we have overseas workers in this country. There are, of course, other reasons — the preservation, the protection of that relationship with the host country is a very important function. But we are now referring to the duty of protecting our workers on which we are trying to give a focus — a strong attention in this particular bill.

It does not mean that by giving priority to protecting the interest and welfare of Filipino migrant workers that we have to abandon that important responsibility of preserving good relations and cultivating the good relations with the host country. I agree fully with that thrust. But the duty to protect, to serve our own countrymen should be a high priority.

In fact, the Flor Contemplacion incident was a good example where the President made an announcement that if there was, in fact, injustice in dealing with Flor Contemplacion, the Government is prepared to reexamine its relationship with Singapore.

While there are important diplomatic functions, the interest of our own nationals should also be given high priority.

Senator Shahani: Mr. President, the way I understand it, I do not think we are in contradistinction with the distinguished Sponsor of this bill. I think it is just the language of the law when we say it is superior to other diplomatic functions. I mean, we are not just talking here about the domestic market; we must also take into account the fact that we are being received by a foreign

country. And, although we will be, of course, sensitive to the political implications of this issue and if, let us say, Singapore was at fault, Singapore still is the receiving country. It is still the country which demands the employment.

So, I think the language could be slightly adjusted to the actual realities of the functions of a diplomat or an embassy abroad, Mr. President. Because if we are there to protect the interest of our nationals, I believe that there are other functions. This is why we go abroad — to promote our products, to protect our sovereignty, our own national territory. As I said, maybe the language could be better improved.

Senator Herrera: As long as we have to give meaning and substance to the provisions of the Constitution with regard to this matter, Mr. President, that the dignity of our citizens must be given full protection. In fact, the underlying philosophy in this principle as we included in this bill, in Sections (a) and (b), is to put the interest of our citizens at a very high level in relation to other functions of our embassies. Probably, it is the word which we can later refine during the period of amendments.

Senator Shahani: Maybe it is that word "superior", Mr. President, which makes me somewhat uncomfortable. Because if we say "superior," then the others are inferior. As I said, maybe there are countries where that might be, but I believe that foreign policy embraces such a wide and diverse dimension of national activity. And for foreign policy now to be limited to the policy of overseas workers, no matter how humanitarian that policy may be, I would like to voice some concern.

For instance, if we shall be viewed by Saudi Arabia and the Middle East countries as a country sending its citizens to work abroad because they have no employment opportunities in their own domestic front, then naturally the perception is that we are a weak country; a country which is vulnerable to the vagaries of the employment market.

This is what I am trying to say, Mr. President. In foreign policy, we must also show a position of strength. I am for the protection of the overseas migrant workers. I am for giving highest priority to that. But I would also be concerned if we neglect the promotion of our export trade — for instance, the sale of our own products; if we neglect the exchange in the field of science and technology, for instance. These are legitimate concerns, which in the end, would also redound to the masses of our people.

Senator Herrera: These are legitimate concerns. But in the event where there is collision between the responsibility, the duty to protect the workers and the other functions, the Constitution mandates that there should be priority in the protection of our Filipino workers.

Senator Shahani: All right, Mr. President. As I said, it is just a matter of phraseology which I am questioning here.

In Section 2, Declaration of Policies, I wonder whether that first policy concerning the promotion of full employment and equality of employment opportunities could not be expanded to say that migration abroad should not be a substitute to the effort of the Government to provide full employment opportunities for our people.

Precisely, that is what is happening. One goes abroad because there is no work here, and that removes the responsibility of any government to really make full employment a basic policy.

Senator Herrera: That is being addressed in paragraph (c), Mr. President.

Paragraphs (a) and (b) are actually provisions of the Constitution that we reiterated in this bill. The point that the Lady raised regarding full employment is addressed in paragraph (c).

Senator Shahani: Yes, Mr. President. I see the relationship between paragraphs (a) and (c), and I believe that is the amplification which I was looking for.

As I said yesterday, the majority of migrant workers are women. This is a fact. The abuses and the violence against human dignity are really directed towards the women workers and hardly to the men workers.

I do not really see much of a recognition of this fact which is a major influencing element in our society today. This explains why there is a lot of instability in the Filipino family, why there are many broken homes, and why there are many single parents, for instance.

May I know whether in this new version, there are references to looking after the concerns of women who comprise more than half of the migrant workers of this country?

Senator Herrera: Yes, Mr. President. Under Section 2, Declaration of Policies, we have a provision in paragraph (g) which says:

The State recognizes the role of women in nation building. Toward this end all programs of the Philippine Overseas Employment Administration shall recognize the special need and characteristics of women migrant workers.

There is also a provision for their participation in the highest

policy-making body of our Government, and that is in Congress. It is mandated under this bill that of the five sectoral representatives in the House of Representatives, two must come from the women sector. On the level of the Overseas Workers Welfare Administration, especially in the planning and implementation of programs, the women sector of our migrant workers is also represented in the Board.

I would anticipate that the policy framework enunciated in this bill regarding the women sector will trigger programs and initiatives by appropriate government agencies servicing migrant workers.

Senator Shahani: Thank you. I am glad to see that these additions have been made. But it would still be useful to mention the need to gather statistics on our workers in terms of sex disaggregation because this will give a bigger, a fuller picture of the actual needs.

In terms of women workers, I would like to see, Mr. President, some assistance in making them integrated again into their family and homelife when they return back home because they have left their children and their husbands to go abroad.

Mr. President, in the period of amendments, if I may, I would like to put into fuller detail some of the ways and means by which we can ensure that the full participation of women in the migrant labor market is fully understood, recognized and appreciated.

Senator Herrera: We would await the Gentle Lady's recommendation during the period of amendments, Mr. President.

Senator Shahani: Thank you, Mr. President.

Senator Romulo: Mr. President, I ask that Senator Alvarez be next considered for his interpellations.

The Presiding Officer [Senator Webb]: Senator Alvarez is recognized.

Senator Alvarez: Will the distinguished Gentleman, the leader of the labor movement in this Chamber, the inspiration of the working class in this Chamber, accede to a few questions?

Senator Herrera: Gladly to the greatest living Ilocano leader.

Senator Alvarez: Mr. President, may I go into certain key concepts which are embodied in the Gentleman's comprehensive effort to embrace the issues on our migrant workers in the different proposed legislation.

Principally, may I first be informed, Mr. President, under the entitlement of "DEREGULATION AND PHASE-OUT" and ultimately within the same subject matter, there is a section there which says, "Gradual Phase-out of Regulatory Function." What is meant by "Deregulation and Phase-out" of the regulation here?

Senator Herrera: In effect, Mr. President, in areas where the private sector can do it, the Government should not be involved. So that, in the recruitment of overseas workers, the less regulations by the Government should be the direction of our overseas employment program. But this must not be understood as abandoning the responsibility of protecting the workers because there is a constitutional mandate in this regard. So that as we deregulate, we would shift the attention of Government to strengthening these agencies of government that protect the interest and welfare of the workers.

For instance, we can now give more attention to our overseas offices of the Government, like the Labor Attache, the Embassy, the Labor Centers that we have there, so that we can channel government resources to strengthen these services and phase out activities which can be done by the private sector.

Senator Alvarez: So, if more responsibilities are assumed, let us say, by corporate employers, then we will encourage this and withdraw from the scene.

Senator Herrera: Yes, Mr. President. In fact, that is now the program to encourage the contract services.

Senator Alvarez: How about the presence of intermediaries like recruiters, Mr. President?

Senator Herrera: Well, this Representation do not see the possibility that we can eliminate these people. They are really the ones looking for the labor markets. They can be encouraged by restricting Government's involvement in competing with them.

Senator Alvarez: In certain cases, the labor recruiting agencies proved to be the problem. Does deregulation mean that the Government withdraws and allow these private agencies to be self-regulating so that rules and regulations will have to be fashioned out by them?

Senator Herrera: Mr. President, let me cite one specific provision here.

In the case of the repatriation cost, instead of the Government paying this cost, we are giving it now to the principal and the recruitment agency. More responsibilities are given to the

private sector. Even on the matter of money claims, where there are violations of terms and conditions of employment, we would like now the recruiter and the principal to be jointly responsible.

Senator Alvarez: Precisely, it is going to be a system of self regulation.

Senator Herrera: In a way, yes, Mr. President.

Senator Alvarez: Mr. President, does the Gentleman not agree that there are certain vulnerable sectors which a deregulated system may show or prove to show to be incapable of coping with self regulatory practices or rules?

I can imagine that if corporate employees come in — especially of the upper end like engineers, computer science, skilled workers — there will be association of these pool of talents. Because of their preparation and their organizational cohesiveness, they themselves can bargain. Perhaps, even with the recruitment agencies, they will be able to have a relationship of equal competitiveness.

But what about the workers in the underclass, workers in the entertainment field, in the domestic sector which, in recorded cases, 95 percent of all reported abuses have been committed against them? Does the distinguished Gentleman think that we can really phase that out or should we not fashion out more imaginative intervention on the part of the public sector?

Senator Herrera: Mr. President, that is the reason we strengthened, for instance, the legal services.

Internally, we now have free legal assistance especially for those who are victims of illegal recruitment. Overseas, we have now the Legal Welfare Commission. We are strengthening the arm of the Government whose task is to protect the workers.

As regards to, let us say, the vulnerable sector where we have child labor overseas, those who are underage, there is now a mandate here that not only that the government agency must have to take the initiative now, more active role in documenting these workers, but those underage can immediately be repatriated.

So, this is a good example. While we are moving towards deregulating, we are strengthening the arms of the Government whose functions are to protect these migrant workers overseas.

Senator Alvarez: So, in more specific terms, Mr. President, what we are articulating here as a rule is a diminution of the overall presence of regulatory rules and yet, a more focused

regulatory or intervention presence of the public sector on the vulnerable sectors?

Senator Herrera: Yes, Mr. President. That is why, for instance, one of the important mandates that the Department of Foreign Affairs must have to do now is to issue periodic advisories to the country, to the nation in general, in order to inform the workers who would like to work abroad, of the working conditions of certain countries, their policies, their records in respecting human rights, of the freedom of association; whether these nations are signatories to international conventions that would give protection to migrant workers so that they will know the risk that they will have to take if they will insist or decide to work in these countries.

This is one function that should be strengthened by the Government so that the workers themselves will know whether he has to go to this particular country to work or not.

The incidence of contract violation is sometimes the result of lack of information of the workers and, unfortunately, even our regulatory body can be faulted. There is really neglect on the part of our regulatory body to properly inform these workers.

We come out with our standard on what should be the level of wages and yet, we know that in these countries where they are supposed to work, the labor cost in these countries are much below the contract supposed to be complied or enforced by the POEA.

Senator Alvarez: I am trying to clarify this concept, Mr. President, because throughout all this document that we are fashioning out and which was proposed by the Gentleman, there is an earnest effort at empowerment of workers organization, workers participation, giving them some institutional sharing in the current systems organized to regulate and to protect them.

So, perhaps the kind of regulation that we are articulating here is not the withdrawal of rule-making but the enhancement of the capacity of the workers themselves or workers organization to put out the rules and participate in the interpretation and the enforcement of the rules.

As matter of fact, the legal assistance scheme that we have here is again a mode of intervention. It does not take away the protective mantle or diminish it as if we are withdrawing from the scene of contractual relationship and taking out the institutions that are supposed to be there to ensure workers' humanity and legal defense.

Senator Herrera: Does the Gentleman not think that the better approach, Mr. President, is that we provide the workers the

necessary skills that would put them in a position to demand for higher wages rather than imposing certain deregulations, like what is happening now?

When we talk of people empowerment, I would rather view it from that standpoint where we equip person with the necessary skills, because these skills are his protection. That is also his leverage to demand for higher wages and this is where the Government should focus its attention. Complementary to this is the strengthening of our agencies overseas whose function is to see to it that the workers' rights and interests will be protected.

Senator Alvarez: We are trying to put the Gentleman's ideas into the record, Mr. President, because these words "Deregulation and Phase-out" may have a chilling effect on workers who feel they were left out in that strange and sometimes harsh environment where they need to be because they have to survive and find work. The whole thrust of the Convention, which may be ratified, is really to expand the power of public intervention, to put safety nets and more of this, if necessary. But if this can be done through workers empowerment, then the better, and I think it should be welcome.

The skills training, for instance, is still a form of intervention.

Senator Herrera: Precisely. That should be the kind of intervention that we should focus our resources on.

Senator Alvarez: But there are necessary interventions, even as we do skills training, which will be needed for certain vulnerable sectors. Usually the least skilled, the women, and the children, where the participation of a certain sector — the recruiting agencies specifically or brokers — may have to be carefully understood. These practices on job placement, documentation, et cetera are instrumentalities that nibble at the economic income of this underclass because we fail to intervene appropriately. I think deregulation, while it may mean empowerment of the workers for this class of workers, even more sophisticated rules and regulations may have to be deployed to protect them adequately.

Senator Herrera: Who should be in a better position, Mr. President, to decide where a worker should work, how much should be the price of his skill, what should be the working condition? Does the Gentleman not think it should be the worker and the employer who decide these things, and that the role of the Government is only to see to it that on the terms that they have agreed, the employers will comply?

That is where we are strengthening the legal assistance,

giving him access to the possibility of retraining and retooling so that he can continue to increase his capability to earn and for the Government to inform him of the risk of working in this particular country. It is up for him to decide whether he has to go to that country or not. I think that should be the limited function of the government.

Senator Alvarez: I agree with the Gentleman, Mr. President, that in a situation like that where the worker will have the capacity to make the decision, there should have been institutions that will give him sufficient information.

Senator Herrera: That is precisely the point, Mr. President, why we are now giving priorities to this kind of institution and function.

Senator Alvarez: Right now, what is happening is that we have 1.8 million undocumented workers. These are what we call the vulnerable sector. They have no information as to the risk they have to take in countries where they would like to work because there is no government agency providing them the necessary information. When they are there in these receiving countries, they always have problems of being exploited or abused because, for one, our Government's capability to protect them is so limited and probably, they do not even know where to go when they have problems.

Senator Alvarez: I wanted to elicit from this exchange, Mr. President, the position to which the Gentleman agrees, because of the way he has handled the questions — that deregulation does not mean the withdrawal in order to protect the benefits or the intervention of the public sector...

Senator Herrera: That is correct.

Senator Alvarez: ...but the creation of institution and systems to enhance and protect, even further the rights of the worker to empower him, to give him the necessary information to make decisions for employment — that this has no relation as in the marketplace to allow market forces to compete freely and occasionally, if not, in all cases to the detriment of the weak and the underclass.

Senator Herrera: And at the same time, give to the principal and the recruitment agencies certain responsibilities like repatriation. This is a very important responsibility. At present, it is actually the worker who is paying the repatriation cost, or, if not, it is the government. The policing of the ranks of the recruiters, why not give this to their organization?

Senator Alvarez: We have 1,800 recruitment agencies, Mr. President. I would like to imagine that it can be done.

Senator Herrera: Probably, we can reduce the number of recruitment agencies and officers of agencies found guilty of illegal recruitment will no longer be allowed to be involved in the recruitment business.

Senator Alvarez: It is clear that the deregulation which the Gentleman speaks of in this rule is not the deregulation of the marketplace...

Senator Herrera: It is not really abandoning the...

Senator Alvarez: ...or not involved in economic commodities but with lives and welfare of individuals. That is the reason we intervene in the market.

Senator Herrera: I think even in the intervention of the market, Mr. President, the best intervention is to enable our overseas workers to have the skills so that they can command a better price.

On the long term, I do agree with the Gentleman, but on the short and medium terms, for as long as we may not be able to develop or modernize, we will always have workers who may need the safety net of regulatory bodies to protect them.

That is the reason I am wary of phasing out completely or introducing the concept of phasing out the regulatory functions of the public sector where the workers themselves participate.

I wanted to put that on record and at the opportune time, I am sure the Gentleman and this Representation can agree on appropriate changes and amendments.

Another section where the adjudicatory function of the POEA is transferred to the NLRC. We know that it takes a long time for things to be settled at the POEA. We all know of its incompetence in many cases. It is slow, sometimes corrupt. But if we move it to the NLRC, which has a big backlog of cases on employer-employee relationships—the Gentleman is an expert on this more than this Representation—does the Gentleman not think that we are burdening that sector which is already overburdened?

Approximately later on, we will put the workers in a far more difficult situation than where they are now with the POEA.

Senator Herrera: Mr. President, there are two problems under the present system. Here we have lawyers in the POEA handling these cases. For one, these are additional layers before final decisions can be reached.

Second is, we really have a problem in attracting lawyers to

join the POEA because their salary grade level is quite low compared to the labor arbiter.

The idea of transferring this to the NLRC is, first, these are work-related. Second, it is easier for the NLRC to hire additional labor arbiters because their salary structure is very, very much higher than the lawyers of the POEA. Third, and this is important, we eliminate certain layers because the decision of these POEA lawyers are also appealable to the NLRC.

Senator Alvarez: Have we specified here, Mr. President, that we should be creating special attorneys for the purpose of attending to these cases of OCWs that will now be shifted from the POEA to the NLRC?

Senator Herrera: Yes, Mr. President. That will be the jurisdiction maybe now in the NLRC and we can specify that there should be labor arbiters who will handle OCWs' cases.

Senator Alvarez: Is it specified here now as to who are going to handle those cases?

Senator Herrera: We can put that as an amendment, although this can be done administratively. We can furnish the DOLE and the NLRC the debate on this issue, and this can guide them by appointing labor arbiters just to handle labor cases affecting overseas workers.

Senator Alvarez: Mr. President, that would be a suitable arrangement, I believe, if we specify this at the appropriate time during the period of amendments, instead of creating special courts to look into the cases of overseas workers.

The Legal Welfare Commission, Mr. President, which have been created here poses some kind of special concern to me. As the Gentleman pointed out in the case of POEA, we have removed a layer but this adds on another layer.

Is this function something that we cannot do by expanding existing institutions?

Senator Herrera: What section is the distinguished Gentleman referring to, Mr. President?

Senator Alvarez: There is a whole section on the creation of the Legal Welfare Commission. I wanted to explore with the distinguished Sponsor the idea of the Commission.

Senator Herrera: The Legal Welfare Commission, Mr. President—by the way, I just like to put this into the record that this is taken from the bill sponsored by Senator Ople—primarily handles overseas cases. That is their function, to assess migrant

workers who have legal cases in receiving countries. So the Commission is more of giving assistance to our migrant workers.

This is a serious problem because many of our migrant workers do not really have the capability to hire their own lawyers and our government agencies overseas also lack lawyers or funds to hire lawyers in these receiving countries.

So this is an important provision of the bill which would give added protection to our migrant workers. This is what I said earlier that when we deregulate, we are merely refocusing our concern in strengthening the arms of government whose function is to protect these overseas workers.

Senator Alvarez: I am all with the distinguished Sponsor on that, Mr. President. The process of our exchange has clarified the thrust of the so-called phaseout or deregulation. It is not cast in iron that we should withdraw from the scene but we are creating better systems to protect our overseas workers.

Senator Herrera: Just to have a total picture of this, Mr. President. In the country, we have the free legal assistance; for overseas cases, we have the Legal Welfare Commission.

Senator Alvarez: Let me point out one minor concern. We have stipulated here a targeted budget of P100 million.

Senator Herrera: Yes, this is an Executive action, Mr. President. It is the President who provided these funds and in the succeeding years, these will be included in the General Appropriations Act.

Senator Alvarez: We have a case in Israel. The lawyers were asking for fees ranging from P2000, P5000 but not more than P5000. When they found out that certain set amounts were being prepared for overseas lawyers, the lawyers demanded P50,000 in legal fees. I do not know. Fees may really be expensive in those jurisdiction, especially in the American and European jurisdiction.

I was computing and the P100 million can take care of the problem of some 80 workers. I do not know, Mr. President, whether there has been an actuarial computation so that we can take care of the whole six million workers overseas by looking after the legal problems of 80 workers with P100 million.

Senator Herrera: In fact, this is also the apprehension raised by Secretary Siazon, in my private talk with him, that the P100 million may not be enough. But I think this is a good start. We should also remember that while it is true that there are several cases affecting our workers, not all of them might need the hiring of foreign lawyers.

Senator Alvarez: So that we will deploy our own lawyers.

Senator Herrera: In places where our lawyers are allowed to practice, Mr. President.

Senator Alvarez: In Section 16 on Migrant Workers Loan Guarantee Fund, the grant of pre-departure loan and family assistance loan is taken out from a migrant worker's loan fund, from P100 million now under the OWWA. Is this within the ambit of the OWWA funds?

Senator Herrera: Yes, Mr. President.

Senator Alvarez: Can we legislate and say that OWWA funds should be used for this particular purpose?

We are saying here that we will use this as a guarantee loan fund. Are there no stipulations on the OWWA Fund? Is this quasi-government private sector fund?

Senator Herrera: I do not think there will be a problem on that. In fact, if only to play safe, the OWWA Board can just allocate that amount.

This is a very important fund because one of the anomalies in the Overseas Employment is that there are recruitment agencies asking fantastic amounts. I understand that in the case of Hong Kong and Korea, it would range from P45,000 to P75,000. So we have workers borrowing money, some of them selling their own properties just to pay for the cost of placement, and many of them borrowing money from loan sharks.

So with this scheme guaranteed by this fund, this will help our migrant workers, Mr. President. They do not have to go anymore to loan sharks or sell their own properties.

Senator Alvarez: My concern, Mr. President, is that the OWWA fund is a trust fund of a special character managed within the System for the benefit of contributors. Those who are departing are not even members of the System yet. They have not contributed; and yet we are appropriating the OWWA fund as if it were government money.

Senator Herrera: The funds of OWWA can be used for the members of the OWWA Fund. Under this scheme only the members of the OWWA Fund can take advantage of the scheme.

This money, Mr. President, will be paid. This is merely a guarantee fund. They will secure the loan from the GFIs, and this loan is guaranteed by the P100 million fund of OWWA.

Senator Alvarez: But the new departures are not yet

members of the System, Mr. President. They have not paid the dues.

Senator Herrera: Their contribution to the OWWA is paid by the employer. So when they secure the loan from the GFIs guaranteed by the Fund, perhaps, one of the conditions is that they really have to submit their employment contract, and it is the employer who pays the contribution to the OWWA fund in the case of the land based.

Senator Alvarez: So that the beneficiaries are in effect already members of the System?

Senator Herrera: Yes, Mr. President, once he pays the contribution or the employer pays the contribution.

Senator Alvarez: Mr. President, have we stipulated in this legislation political representation? I mean the right to exercise the vote?

Senator Herrera: It is in the Statement of Policy, Mr. President.

Senator Alvarez: How do we reconcile that with sectoral representation? We, at the same time appoint or cause to be appointed sectoral representatives, and yet we are going to invest them with a right to vote that looks, on its first impression, redundant investiture of sovereign power because we have sectoral representation and then we anoint them with the authority to vote.

Senator Herrera: In the policy statement, Mr. President, we are referring to the absentee voting. In the case of the sectoral representation, it has something to do with the provision of the Constitution regarding the sectoral representative in the House of Representatives where we mandated under this bill that there should be five sectoral representatives for the migrant workers in the House of Representatives.

Now, may I just remind the distinguished Gentleman that this will only be for 1995 up to 1998 because under the Constitution, there will be no more appointed sectoral representatives after 1998. At least for the 10th Congress, they can be assured of five representatives of which two of the five are women.

Senator Alvarez: So that after 1998, we would have invested them with the power to participate in the selection of...

Senator Herrera: The absentee voting is now pending with the Electoral Reforms Committee, Mr. President. It is merely a policy statement here that the Government should enact the

absentee voting bill. I understand this is being certified. The President would like this to be acted upon in this special session. The representative from Malacañang approached this Representation today and I referred her to our Majority Leader. That is a separate bill.

Senator Alvarez: So that if we have the absentee voting which is intended really to hear the sovereign voice of our OCWs before 1998, theoretically we have that, would that mean that we will now shift the sectoral representatives to other sectors in the community and find it unnecessary because now they can already participate?

Senator Herrera: The right to vote under this absentee voting is the right of the citizens to participate in electoral process. There is a constitutional mandate on that. Unfortunately, until now Congress has failed to enact a legislation giving that right — to exercise the right of suffrage.

Senator Alvarez: Precisely, now one can exercise his right of suffrage; he can appoint his spokesman; and then we will continue to appoint the sectoral representative who will still be spokesman because he is a class that needs representation.

Senator Herrera: The sectoral representative, Mr. President, is only for 1995 to 1998 because there is that provision in the Constitution, that in addition to the duly elected district representatives, we have also sectoral representatives to be appointed by the President.

Senator Alvarez: I understand that, Mr. President. I appreciate that. I am just going through the refinement of this concept that precisely because of a gap that they are not heard and they are another class, then we are appointing people who can speak and articulate their needs. But now if they are going to be represented because they will vote — they are absentee voters — politicians will now go to Saudi Arabia and campaign and listen to them as well and then come back and say these are what the employers in Saudi Arabia want. We may not need to appoint sectoral representatives. I am hopeful that the right of absentee voting would be approved before 1998 as an achievement of this Congress. And that is a conceptual refinement that we have to tackle.

Senator Herrera: But even if that absentee voting will be enacted by Congress, there is still that provision in the Constitution about sectoral representatives. Of course, it is up to the President to appoint or not.

Senator Alvarez: He can still appoint but no longer from the OCWs. He can get from the local sectors in society who are underprivileged because we have another class in our society that

needs to be represented and their representation should be picked out from them and not from the OCWs who can now be heard.

Senator Herrera: The sectoral representatives, Mr. President, come from six sectors. We have the overseas workers, the organized labor, the urban poor and the farmers. They are supposed to have representatives in the House of Representatives to be appointed by the President. But as of now, there is only one from the overseas contract workers. He is Congressman Concepcion. So, under this bill, we are mandating that there should be five sectoral representatives.

Senator Alvarez: Have we clearly emphasized here the vulnerabilities of our women workers?

Senator Herrera: Yes, Mr. President. In fact, there are provisions in the bill which are concerned about the women workers. In the Declaration of Policy, there is a statement for the women workers. There are two or three provisions which would guarantee the empowerment of the women sector.

Senator Alvarez: Mr. President, much of the abuse, and in the case of the OCWs, much of the exploitations happen from inadequate or total lack of information, both of the institutions that attend to the needs of the workers and the workers themselves.

Does the distinguished Sponsor really have a special objection in expanding the system of information in order to enrich the capacity of the institutions that attend to workers and information of workers themselves?

Senator Herrera: In fact, under Section 11 of this bill, we are mandating that responsibility of the Government to provide periodic information to workers, especially prospective migrant workers.

Senator Alvarez: I agree that is an improvement, but what I mean by system of information is the collating or pooling so that we can have a brain system — not separate institutional systems. We pool the information of DFA. We pool the information of POEA, OWWA, and even Department of Tourism on the appropriate and needed documentation — information about the workers through available systems of computerization. Then we create an interagency exchange of information so that we really have a whole panoply of information system and we do not work out of lack of information. We push the button at the POEA; we are connected right away to the Department of Foreign Affairs. The Department of Foreign Affairs, hopefully, will eventually be connected to the local organizations, whether it is an NGO or something in Tokyo, Japan, and there is a pooling of information.

Senator Herrera: Frankly, Mr. President, what the Gentleman is suggesting is very ideal. But even right now, we even have the problem of recording the number of overseas workers. That is how deficient we are.

I recall yesterday that one of our Senators here raised the question whether we have the capability or we have the necessary set up where a worker, upon reaching the airport of the receiving country and he has a problem, can get in touch with the consuls and the ambassadors. That is also a problem — to get information. But I guess these are problems that can be solved not necessarily by enacting a legislation on that. This can be done by purely administrative action.

Senator Alvarez: Mr. President, if the Sponsor will find this difficult, then perhaps, a mandate in this kind of a legislation which seeks to protect the rights of workers may help. I subscribe to the E-mail system.

Under the E-mail system, I can scour many libraries in the world to look for certain issues or publications. It seems impossible, but the computer system is so extensive now that I think the Government is very much in a position to put that in the hands of institutions that seek to protect our workers. So that the vital information, whether of an entertainer in Tokyo or Hong Kong, maybe, needing for his family or for herself would be there for us.

So, perhaps, in the appropriate period of amendments, I will be making the amendment and I hope the Chairman will consider this. On this day and age of global and extensive computer service, we can put this service at the hand of the working class.

Senator Herrera: In fact, Mr. President, it should not only be in the overseas employment program that we have to employ the technology that the Gentleman is suggesting. The entire Government should have access to this kind of technology.

Senator Alvarez: Let us begin with the piece of legislation of the Sponsor so that he can set the model for this nation, Mr. President.

Senator Herrera: We have already started that in the Bureau of Customs and the BIR. I hope this can work in the other government agencies.

Senator Alvarez: I am sure the Sponsor would not allow them to get the headstart on us, especially if we can use them for the protection of our workers.

Senator Herrera: Thank you, Mr. President.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Webb]: The Majority Leader is recognized.

Senator Romulo: May I ask that for the next interpellations, Senator Mercado be recognized.

The Presiding Officer [Senator Webb]: Senator Mercado is recognized.

Senator Mercado: Mr. President, will the Sponsor of the measure yield for some questions?

Senator Herrera: Gladly, Mr. President.

Senator Mercado: Mr. President, considering the time, I shall make my interpellation as brief as possible. I have gone through the measure and I would like to congratulate Senator Herrera for the difficult task of crafting legislation in response to a myriad of problems that the overseas contract workers face.

One of the more important chapters of this measure, Mr. President, is the provision on illegal recruitment. To my mind, as it has been shown in the hearings and as indicated in the white paper of the DOLE and the position papers given to us during the hearings, the problem of illegal recruitment is one of the more vexing problems that is difficult to solve. We have had an increase in the number of agencies that are allowed to recruit, and this is what appears to be a relaxation in the rules. This twin problem is one of the heavy millstones over the neck of our overseas contract workers.

There are new licensees, and I have been informed that there are more waiting to be approved. I do not know how many of the licensees who were banned before are now in operation, utilizing new names. There seems to be some ease in being able to get a new licenses.

Would the Sponsor of the measure tell us if the provisions of this proposed bill would correct what appears to be one of the most difficult problems of the OCWs?

Senator Herrera: The provisions of the bill, specifically on the matter of illegal recruitment, will greatly help in ferreting out illegal recruiters. As to the matter of controlling or reducing the number of recruitment agencies, this can be done administratively by the POEA. All it has to do is not to issue licenses.

What I know is that, right now, one can only secure a license on contract service where he hires and deploys in his own company.

Senator Mercado: Mr. President, I do realize that many of the problems of the OCWs can be solved by administrative measures. However, we have a problem in this country wherein when we have a new Secretary of Labor or a new head of the POEA, policies change. This is one of the big problems that we face. Maybe it should be better for us to incorporate these policies and set it in the statute books, the measures.

Sometimes, we have a tendency to micro manage departments, and which maybe we should not. But then again, there is also a need to set more permanent policies especially for our OCWs. What does the Sponsor think of that line of reasoning?

Senator Herrera: I really do not have objections to controlling the number of institutions, firms or individuals authorized to engage in recruitment. In fact, the requirement now is, in a way, a restriction where one has to put up a bond, and that there is a need of a certain capitalization. This is in a form of restricting the number of recruitment agencies because not just anybody can apply for a license. There are certain requirements.

The other is that, if we will be very strict in the enforcement of laws regarding illegal recruitment, this will tremendously reduce the number of recruitment agencies especially that under this bill now, illegal recruitment may be committed by one who is a license holder. Once he is found guilty of committing a crime of illegal recruitment, there is automatic cancellation of his license and he is barred from engaging in recruitment.

Senator Mercado: In Section 5, do we have a provision on fines and imprisonment?

Senator Herrera: In Section 5, Mr. President, we classified two types of illegal recruitment. One, is that considered as economic sabotage, which I think, is in accordance with the Gentleman's bill where the penalty is life imprisonment and a fine of P1 million, is quite stiff, a very severe penalty.

Now, we have also provided a provision here which makes it easier to file an illegal recruitment case because one can file the charge in the place of residence of the victim. Then, under this bill also, the victim can be placed under the Witness Protection Program so that the cost of litigation will already be absorbed by the Government because this really is one of the obstacles in our campaign against illegal recruitment.

We received so many letters; we heard over the radio workers complaining about illegal recruitment, but when one looks at the number of cases filed, there are only very few because of the costs of litigation.

So, under this bill, we address this problem. We are now

providing free legal service. The charge can be filed in the place of residence of the victim, and they can be placed under the Witness Protection Program.

To me, these are improvements in the enforcement of our laws on illegal recruitment.

Senator Mercado: I am just curious, does the Sponsor know how many illegal recruiters have been sent to jail?

Senator Herrera: As far as I can recall, I think, last year there was one decision, one conviction.

Senator Mercado: So, one person.

Senator Herrera: There is a special task force in the Department of Justice, and the OWWA appropriated funds for this. I am afraid the records of this special task force is a failure.

Senator Mercado: So, what the Gentleman is saying is that, there are a lot of complaints but very few convictions because the cases are not pursued?

Senator Herrera: Yes.

Senator Mercado: And as far as this measure is concerned, we are providing the mechanism by which the victims will be able to pursue their cases because the Government takes over?

Senator Herrera: Yes.

Senator Mercado: So, after this measure is enacted, is the Gentleman saying that we will be able to convict more illegal recruiters?

Senator Herrera: Hopefully, Mr. President, because then we will have more victims who are willing to testify.

Senator Mercado: How about the chameleon-like mechanism being used by the recruiters when they are banned, they organize another recruiting company, thus they are still in business although their names do not appear there anymore? Has this been addressed, Mr. President?

Senator Herrera: Well, there is a prohibition or a restructure on this. Once the recruitment agency is found to have committed illegal recruitment, he can no longer engage in the business, he can no longer form his own company. But as the Gentleman said, "Well, why not use another person just so one can continue?" But the penalty now, especially if the act of illegal recruitment would amount to an economic sabotage, is very severe. So, this is a deterrent. The other is that, since the

workers or the victims can easily file the charges now, this is also another deterrent.

Senator Mercado: Under this measure, Mr. President, what happens if there is a case against a recruitment agency? How many cases of illegal recruitment are required to be filed against a recruitment agency before the same is suspended or its license cancelled?

Senator Herrera: Well, it is not only on an illegal recruitment case or cases that a license can be revoked. There are certain requirements also, such as noncompliance of legal requirements which would result to the revocation of the license. But in the case of the illegal recruitment, there should be conviction.

Senator Mercado: Not only suspension?

Senator Herrera: And once there is conviction, then there is a cancellation of its license.

Senator Mercado: Mr. President, I just have one other point on this particular issue.

Senator Mercado: This Representation believes that the penalty should be related to the number of victims. Because it can be one case but it can victimize thousands and ruin the lives of more because of the families who are affected.

Is there a way that we can incorporate a heavier penalty, subject to the number of victims instead of just the number of the contracts or the cases involved?

Senator Herrera: This is now addressed in this bill, Mr. President.

Senator Mercado: How is it addressed in this particular measure, Mr. President?

Senator Herrera: We classified them as economic sabotage where the victims are numerous.

Senator Mercado: Thank you very much. I would like to go to another issue, and this is the issue of the POEA and the OWWA.

Mr. President, even in the white paper submitted to us by the Department of Labor and Employment, they speak of reforms that should be done with the POEA and the OWWA. In fact, there is a suggestion that the same should be merged. Is that particular issue addressed in this measure?

Senator Herrera: It is not addressed here because of the

risk involved. By merging POEA and the OWWA, POEA would be using the funds of OWWA, and this needs a very careful study, Mr. President.

Senator Mercado: Mr. President, I have heard a lot of complaints about the OWWA. I am not too conversant on its structure, but can I inquire how the OWWA funds are audited? How were the OWWA funds formed, how were they originally constituted, who contributes now to the OWWA, how is it administered, and what controls are being instituted in the monitoring of the expenditures of its funds?

Senator Herrera: First, the OWWA is subject to COA audit. Second, originally, the OWWA fund is a contribution of the employers. The employers contribute to the OWWA. At that time, it was primarily landbased. Later, the seabased workers were also covered. In the case of the seabased, the employer contributes US\$15 and the worker contributes US\$10. The reason why in the case of the seabased the worker has to contribute is, in the case of the seabased workers, the manning agencies or recruiting agencies are not allowed to charge placement fees. It is only the landbased recruiters who are allowed under the policy to charge placement fees. That is how the OWWA funds started.

Senator Mercado: Today, do the employers still contribute or is it basically now just the workers contributing? Is there a reduction in the contribution by the employers?

Senator Herrera: There is no change in the policy now. Whether in the implementation of this policy some unscrupulous recruiters or principals charge this to the workers, that is something that we really have to investigate although there are some rumors about this.

Senator Mercado: Is there a control mechanism as to how much it can spend for administrative costs, for example?

Senator Herrera: There is. They are only allowed a certain percentage for administrative cost. In fact, this is one of the requests of the OWWA that there should be a reexamination on that. If I am not mistaken, they cannot spend 10 percent. Senator Ople is more familiar with this. But I think it is 10 percent of the total funds of OWWA.

Senator Mercado: So, Mr. President, if we are not addressing the issue of overlapping of functions of the OWWA and the POEA, what would this bill do? This is the oft-repeated suggestion that I have heard in the hearing.

Senator Herrera: There is no overlapping of functions of OWWA and POEA. There are complaints against OWWA.

There are also complaints against the POEA, but it is not on the matter of overlapping of functions. There is a clear delineation of the functions of POEA and that of OWWA.

As I said earlier, there has been a proposal to merge the two. I think we have to study that carefully. In fact, one of the risks involved in merging the two is that we will find that the POEA might be using the OWWA funds. That would be wrong because the OWWA fund is contributed by the documented workers. The POEA has a different function, and its constituency is bigger than that of OWWA.

Senator Mercado: Does this measure address the complaints against the POEA? It has been brought to our attention that, for example, several POEA officials have recently been assigned to different postings outside the country.

For example, POEA Deputy Administrator for Management Services, Manuel Imson, is presently Labor Attache-designate to Washington; POEA Director for Adjudication, Jaime Jimenez, is also Labor Attache-designate to Dubai; POEA Director for Employment, I hear, is acting Labor Attache to Singapore, while POEA Director for Welfare and Employment is currently on leave.

Now, the question is: Why do we have these things, if true, when they have mandated functions of the POEA for service of workers overseas, for which many of its functions remain unimplemented, and they are dormant in paper?

Would the Sponsor please tell us if this is allowed? Of course, this is basically an administrative matter but if this is true, maybe we can do something to correct it by way of legislation.

Senator Herrera: I guess this information is correct. What I can only say is that the function of these people now who are assigned or designated as labor attaches must be performed by other officials. I suppose they are performed now by their assistants, whoever they are.

The practice of designating these people as labor attaches instead of appointing them as full labor attache is due to the limited period of assignment as a labor attache. After two or after a number of years, he will be recalled. And when he is recalled, his category is very much lower than the position that he formerly occupied.

Ang nangyayari ryan, for instance, in the case of Deputy Manny Imson, he must be receiving something like P14,000 if he will be appointed as a full labor attache. And when he will be recalled, I think his salary will be P8,000 because the level of

a recalled labor attache now without the allowances, is even lower than that of a division head. That is the problem.

So that, if we will recruit internally and take advantage of those more competent officials in the Department, nobody will accept the position unless he is assured that when he comes back his salary will be maintained; at least, the salary before he was assigned as a labor attache.

Senator Mercado: When we speak of labor attache, is it the same as welfare attache?

Senator Herrera: No, it is different.

Senator Mercado: What is a welfare attache?

Senator Herrera: The welfare attaches are those with OWWA and they are the one manning our labor centers. They are lower in category compared to our labor attache.

Senator Mercado: We have labor attaches, we have welfare attaches. If we have so many attaches, why do we still have so many problems that ...

Senator Herrera: No, there are only a few.

The Gentleman will be surprised to know that, in the case of Saudi Arabia, we have about 450,000 Filipino workers with only two labor attaches.

Senator Mercado: Is the solution to put more labor attaches?

Senator Herrera: It helps.

Mr. President, this is one of the anomalies that I noticed when I went there. For example, the labor attache wherein one of the mandates is to visit workplaces is only given \$150 as his transportation allowance. Then, we have a finance officer from the Department of Finance, or representatives of the BIR or PNB, wherein they have \$1,000 transportation allowance, and yet these are people who are not mandated to travel. But they have higher, bigger transportation allowance compared to our labor attaches.

When one is assigned as a labor attache and some of these workplaces are located sometimes 100 or 200 miles from the embassy or from the office, they really need support, not to mention the fact that it is just impossible for one labor attache to service 500,000 workers.

Senator Mercado: Will that be solved by the country-team

approach as embodied in this measure? Will that solve the problem?

Senator Herrera: In a way, yes, because then we have the entire embassy helping the workers.

Senator Mercado: Is it safe to say that we do not have to increase the personnel complement because now, with the country-team approach, with the ambassador at the helm ...

Senator Herrera: Not necessarily.

In fact, if we look at the budget of the Department of Labor and Employment, every year we are increasing the allocation for our labor attaches under the Office of the Secretary and it is because of that bid, Mr. President.

The Gentleman will be surprised that the Department of Trade and Industry has 37 trade attaches. If I am not mistaken of the 37, 24 are not yet filled up. But the labor attache has a smaller number. If I am not mistaken, there are only 32 labor attaches.

Senator Mercado: Precisely, Mr. President, because in the statement of principles, we are saying here that the export of labor is not a permanent fixture of the economy.

Senator Herrera: Let me clarify this, Mr. President. It may not be a permanent program but it does not mean that we do not have anymore migrant workers. Because if we look at the bulk of our migrant workers, these are the undocumented. These are the workers who go to these countries using fake passports or with tourist visas and then they work there, and we are talking of 1.8 million.

Senator Mercado: Precisely, Mr. President. What I am trying to say here is that, if indeed we see, years from now, an end to the phenomenon of migrant workers, then in the country-team approach the entire embassy should be oriented. It is not a matter of increasing the labor attaches, but a reorientation of the entire bureaucracy so that they attend to the needs of the overseas contract workers. This does not necessarily mean enlarging the bureaucracy. I think the problems is the thinking in the bureaucracy. It is a matter of turf. "Hindi ko trabaho iyan. This is not my area. I am supposed to be a consul. That is not my work." Even the ambassadors have that particular problem. That is the point I would like to raise.

Senator Herrera: That is now being addressed under this bill, Mr. President, where under the country team approach, it is mandated that the servicing, the protection of the interest and welfare of the workers should be a superior function compared to other diplomatic functions.

Senator Mercado: As I said, I am not going to make my interpellation very long. I will just propose amendments, if necessary. I would like to congratulate the Chairman of the Committee of the Whole and his co-Chairman as well, for the work that they have done. Although I do believe that this is a good measure, I am of the opinion that this is indeed not a panacea. We have a lot of problems that we have yet to face. Let us not raise the hopes of our people that we will solve the problems of the OCWs because we have passed a magna carta.

Thank you very much, Mr. President.

Senator Herrera: Thank you, Mr. President. In fact, that is the reason we avoid using magna carta for overseas workers.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Webb]: Senator Romulo is recognized

Senator Romulo: Mr. President, I ask that the distinguished Senator from Mindanao and Sulu, Senator Rasul, be recognized to interpellate.

The Presiding Officer [Senator Webb]: Senator Rasul is recognized.

Senator Rasul: Thank you, Mr. President. Let me start by saying that I fully support any legislative measure, any program or strategy that will provide protection and promote the welfare of the OCWs. I think we can never do enough for our overseas contract workers, especially the women overseas workers. I do not think we can do enough to assuage the feeling of loneliness, insecurity and the pangs of desire to be with their family which they cannot do. But for want of an income, they have to leave their families behind and risk the dangers to life and limb when they are abroad and perhaps, could even be abused and maltreated as in the recent case in Singapore, an OCW was brought back in a coffin.

I would like to congratulate the distinguished Senator from Cebu and Bohol, the leader and inspiration of the labor sector, for this well-crafted piece of legislation which seeks to improve and strengthen the protective measures for our overseas contract workers.

Senator Herrera: Thank you, Madam Senator.

Senator Rasul: I will not go into the examination of the section on illegal recruitment, Mr. President. We have, in fact, on a number of occasions, brought about by our investigations the abuse and maltreatment of women overseas workers. In fact,

we have a number of laws and enough rules and regulations, but what we need is a serious and an honest-to-goodness implementation of these rules and regulations. However, there are some provisions in this bill which I would like the distinguished Senator to clarify, if he will yield for some questions.

Senator Herrera: Gladly, Mr. President.

Senator Rasul: Under Section 12 on repatriation, it seeks to create an emergency repatriation fund under the administration, control and supervision of the OWWA. Why is there a need to designate such a fund? I understand there are already hundreds of millions in the coffers of the OWWA which is supposed to take care of the needs of overseas contract workers. In fact, every worker who goes abroad has to contribute \$100 to that OWWA Fund. Why is there a need to designate such a fund wherein the amount of P100 million would be taken from the existing fund under the control and administration of the OWWA?

Senator Herrera: This is a sort of a standby fund. We merely allocated that fund that in the event of emergencies like *force majeure*, like the Gulf War, at least we will not be in a quandary as to where to look for funds to pay for the cost of repatriation.

May I emphasize, Mr. President, that there is one important provision here that mandates the principals and the recruitment agencies as jointly responsible for the repatriation of workers.

This is a recurring problem of the industry and the entire overseas employment program.

But even if this provision, when complied with honestly and religiously by the employers and the recruiters, we still have, in reality, 1.8 million undocumented workers. So that when there is an emergency and there comes the need to repatriate them, we will always have the problem of where to get the money.

If we will recall, during the Gulf War, we even asked contributions from the Filipino communities abroad to pay part of the cost of repatriation. And I understand there were international agencies helping us.

We do not want that situation to happen in the future. The allocation of this P100 million as standby fund also convey a very important message that the Government is really sincere in protecting the migrant workers especially in times of emergency.

Senator Rasul: Mr. President, does that mean that we absolve the employers from the responsibility of repatriating the overseas contract workers if we already have to provide the P100 million rather than to collect from them?

Senator Herrera: Not really. Normally, in an employment contract, employers pay the cost of repatriation during normal times. But in cases of *force majeure* or emergency, this problem arises, especially with the undocumented workers who do not have a contract to protect them.

Senator Rasul: Yes.

Senator Herrera: Let it not be understood that this provision would mean that we are absolving the employers from their responsibilities to assume the cost as covered in this bill.

These funds, as I said, is intended primarily for those workers who are illegal entrants. Actually, some of them do not even have employers because they are still looking for employers. So to whom do we charge the repatriation cost? They are also Filipinos and they have to be attended, too, by us.

Senator Rasul: If we will recall, I think three years ago, there was the case of 300 Filipino women workers who were stranded in Beirut. We investigated that case, Mr. President. We found out that these 300 women actually left the country as tourists. They left for Cyprus and when their visas expired, they went to Beirut because Beirut was in a state of war and nobody cared to look at the visas of any incoming foreigners, but these women ran out of funds and were forced to sell themselves to be able to survive.

When the news broke out, Mr. President, not one of our labor agencies, whether POEA or OWWA or any agency which has to do with overseas Filipinos, came to the rescue of these 300 Filipinas because they were not documented. They were not legal in the sense that they never went through POEA and they did not contribute to the welfare fund — the \$100 which is required of every Filipino who go abroad. That was the problem.

Now, with this repatriation fund, Mr. President, does the distinguished Sponsor not think that this will encourage Filipinos to go abroad and do the same thing, knowing fully well that if something happens to them, there is already this repatriation fund which will be used to send them back home?

Senator Herrera: Not really, Mr. President, because we have also clarified here in what instances the fund can be used. This is only in the case of war, *force majeure*, where abnormal emergencies occur that the funds can be used.

I agree with the distinguished Lady Senator that sometimes it is unfair really to the taxpayers to pay the cost of repatriation, especially for these women who went abroad, engaged in prostitution and had problems. But, unfortunately, they are there; they are Filipinos. We really have to service these people.

It is very difficult to discriminate; that we must not pay the cost of their repatriation because they are prostitutes or they traveled as tourists and they are stranded there. This is really the problem in our overseas program.

Senator Rasul: Mr. President, I have no problem with providing transport for Filipinos who find themselves stranded abroad even if they are prostitutes. But my fear is, this might encourage Filipinos to go abroad because they can always expect the Government to come to their rescue.

I am not saying that our Government should not be responsible for its nationals, especially if they encounter problems abroad, but my apprehension is, this might just serve as a safety measure in a sense for women especially or Filipinos to go abroad. Anyway, if something happens, there is the money that will provide transport for them. But I am sure there will be some guidelines to provide for those who should qualify under this provision.

Senator Herrera: Certainly, there will be implementing rules to implement the provisions of this bill once it becomes a law.

Senator Rasul: Mr. President, Section 13 on the Mandatory Repatriation of Underage Migrant Workers. All that it says here is, upon the discovery of the presence of migrant workers whose actual ages fall below the minimum age requirement, all that is done is to deport, to send immediately this underage migrant worker back to the Philippines and advise the Department of Foreign Affairs of the discovery of this migrant worker and other relevant information.

Mr. President, is this all that we are going to do? Are we not going to penalize the people responsible? I think this involves falsification of public document. How can someone who is underage be given a passport without collusion with some officials of the Department of Foreign Affairs.

This is very relevant, Mr. President, because in my frequent trips abroad, I always make it as a matter of course to visit OWWA Centers. And on one occasion, I noticed there was one young migrant worker in Jeddah who wanted to come home after a few days. When I asked her why? Well, she was homesick. I asked her how old she was; she said she was 23. But looking at her, I thought she was only 14 years old. Upon questioning, she really admitted, she confessed that she was only 16. This is way below the age requirement for women who go abroad to work as domestics.

So, should there be no penalty, Mr. President? I think there should be stringent penalty not only for the recruiting agency but

also for the officials involved in the falsification of public documents.

Senator Herrera: In fact, Mr. President, this is one of the proposals mentioned by Senator Gonzales when he interpellated this morning in regard to the illegal recruitment case, that those who conspire with the recruiter to commit acts, like falsification, should also be charged or that act should be classified as illegal recruitment and that official can be charged for illegal recruitment. In the period of amendments, this will be taken care of.

I agree with the Lady Senator, Mr. President, that the official, knowing that she is underage but then helped in the documentation so that she can be deployed abroad should also be charged as illegal recruiter.

Senator Rasul: This bill seeks to establish a migrant workers' resource center within the premises and under the administrative jurisdiction of the Philippine Embassy.

Mr. President, the Gentleman had been in Saudi Arabia a number of times. Can he imagine a welfare center within the premises of the Embassy. The Embassy will become a marketplace. I think the Philippines can afford to have an embassy with a huge ground where one can have a space where OCWs can move around.

I recall even before the Gulf War, the day-to-day activities of the OCWs in the Embassy in Saudi Arabia is too small. Now we can imagine if we put a center right within the premises of the Embassy, there will be a tremendous disturbance and the functioning of the Embassy will be truly impaired.

Senator Herrera: Maybe the Center can be located a distance from the Embassy but still technically that can be considered as part of the premises of the Embassy. So that can be interpreted that way, Mr. President. We will see to it that there will be no misunderstanding on that particular provision that there should be physical location within the immediate premises of the Embassy.

I can see the problem. I visited the Embassy in Saudi Arabia. In fact, the premises of that Embassy in Saudi Arabia are quite comfortable compared to other embassies. I can see the point of the Lady Senator. But I think that should be understood that although it might be located far from the Embassy, it is still a part of the premises of the Embassy.

Senator Rasul: There is also this scheme of registration of undocumented workers. I recall, Mr. President, in one of my trips to London, I was talking to the Consul in London and he told me of the existence of a number of undocumented workers,

especially domestic helpers. He admitted to me that the employers of these girls know that they are undocumented. Just the same, because they really needed the services of these girls, they closed their eyes and hired them.

But there were occasions when they were found out and they had to report to the Embassy. When they were advised to leave immediately, they begged and pleaded to be allowed to stay and risked the danger of being again apprehended and penalized or maybe imprisoned because they still wanted to stay in the country to work.

I do not know how effective this section would be because I have a feeling that when the undocumented workers leave the country, they run the risk of being caught. Just the same, they would just run the risk rather than come home and risk unemployment and the lack of income.

I do not know how this can be implemented, Mr. President.

Senator Herrera: I guess there are certain kinds of undocumented workers who might be very difficult to cause their registration even with this provision. But, workers with valid passports but with tourist visas and who are there already for six months, are required to register because we would like to help them. If we can document their stay there and make it legal since they are looking for jobs or they are already employed, that is part of our assistance to cover them also with our OWWA.

With the sanction that their passport will be cancelled if they will not report, I think it will induce these people to register. But those who are really using fake passports — probably they purchased these passports in Binondo — I am sure that even with this provision, they will not come to the Embassy in order to register.

But look at this provision also from another dimension — that this will now also enjoin and compel our government officials to take initiative in looking for these people. For instance, if we ask our officials in the Embassy, they can meet all the undocumented workers in the plaza during Sundays. So they will really know where these workers are especially in small countries.

For instance, in Singapore, it is not difficult to look for the undocumented workers. It is just that we really do not take the initiative in doing it. In Hong Kong, it is not difficult to look for undocumented workers. These are not big places. Macau is a small place also.

I also experienced that in London. I stayed in one hotel; we had there undocumented workers. Originally, they

worked in Riyadh then came vacation time, they went to London to take their vacation. Later, they decided to stay there and so they became undocumented also. But they can easily be located.

The only problem is that our Embassy officials are just waiting in their office for these people to come. I think there should be some initiatives, maybe some information drive—the advantage of registering, reconfirming their passports and being part of the OWWA.

Senator Rasul: It occurred to this Representation, Mr. President, that in the event we approve the bill that will provide absentee voting, I wonder who are the Embassy officials who will not be pressured to close their eyes because of the votes of these undocumented workers who have families back home. It is all right if there are only one or two, but for example, in the Middle East we have hundreds of thousands of workers although they are not that many undocumented.

In other countries, for example, in Europe, where there are a number of undocumented workers, I wonder how feasible this provision would be because somebody close to the Embassy who is campaigning for a candidate, let us say, for President in 1998—maybe Senator Romulo or Senator Angara might be a candidate in 1998—and we have 10,000 undocumented workers, that is a sizeable force that can mean the victory or defeat for the candidate. And if they are allowed to vote, certainly they are qualified voters even if they are undocumented as workers.

Now, does the distinguished Gentleman not think the Embassy officials will be able to resist pressure from the families of these undocumented workers who are voters?

Senator Herrera: Frankly, Mr. President, the absentee-voting bill should be the real Magna Carta for Overseas Contract Workers. That is why I have been saying that it should be the one that should be tackled here because if these workers would be able to vote, then we will also find the Government very concerned and responsive to the needs of these workers.

Unfortunately, it is still pending in one of the Committees and I understand that the President has certified that, and hopefully, we will be able to tackle that issue. I am also very confident that once the absentee-voting bill becomes a law, it will reduce the number of undocumented workers because now they have to come out in the open and register if only to be registered and in order to exercise that right to vote.

Senator Rasul: That is a good point, Mr. President.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Webb]: The Majority Leader is recognized.

Senator Rasul: I have not finished, Mr. President.

Senator Romulo: With the permission of Senator Rasul.

Senator Rasul: All right.

Senator Romulo: May I just pose a question with regard to absentee voting.

Mr. President, if even in our country now we cannot seem to protect the votes of poorer candidates and we are already in our country, how does the distinguished Sponsor think the grant of absentee voting will protect the rights of poorer candidates who have no resources to be able to protect their votes in so many areas all over the world when even here right now like Senator Biazon, he is having a difficult time because of resources?

We heard the speech of Senator Coseteng. They cannot even be protected in the places where they actually received against those who are more moneyed and, therefore, have resources to resort to whatever is being resorted to.

Senator Herrera: I think that is a very important question. On the other hand, Mr. President, there is also this fundamental issue: Will I be deprived of my right to vote just because there are crook politicians? Is it fair? Is it fair that I will be disenfranchized just because there are politicians who will cheat in the election? I think that is a very important issue that we have to resolve in the discussion of this absentee vote.

My point here is that it is a supreme right of a citizen to participate in the electoral process. It is the responsibility of the Government to see to it that the integrity of the electoral process is protected.

Senator Maceda: Mr. President.

The Presiding Officer [Senator Webb]: Senator Maceda is recognized.

Senator Maceda: With the permission of the Lady Senator from Sulu and Tawi-Tawi.

I agree with the trend of thought of the Majority Leader. But what came into my mind after he spoke of the fact that even in the House version of the Absentee Voting Bill, they would like to limit it to voting for national candidates. I think before we

should tackle the Absentee-Voting bill, we should first wait as to whether the proposal to shift into a parliamentary unicameral system is dead because once we shift into a parliamentary unicameral system and there is no voting for President and Senators, even the workers abroad either will not be that interested to vote for individual congressman or if so, we will have a bigger practical problem of six million Filipinos being classified into the districts where they are supposed to cast their votes for the congressman of the district.

I am just pointing that out, that this matter of absentee voting will no longer be relevant or not relevant, if I may correct myself, if we shift to a parliamentary system of government. Would that not be correct, Mr. President?

Senator Herrera: This is a very complicated matter. As I said, let us examine all the dimensions. There is that right to vote which I consider supreme. But on the other hand, there is the problem also pointed out by the Majority Leader. This is further complicated by this parliamentary system that the distinguished Gentleman is mentioning.

That should not be an obstacle for Congress to really legislate this. I think we really have to come out. There is no such perfect scheme but I just do not think it is correct to deprive these people of their right to vote.

Senator Maceda: I agree with that, Mr. President, and certainly, once we give absentee voting to the overseas contract workers, I think that will be the time a candidate from the labor sector like the distinguished Gentleman could be elected President.

Senator Herrera: I will only be a campaign manager of Senator Romulo.

Senator Rasul: Mr. President.

The Presiding Officer [Senator Webb]: Senator Rasul is recognized.

Senator Rasul: Mr. President, the Center in this bill seeks to obtain the services of a lawyer and a social worker as well, in addition to the welfare officer. Does the labor attache or this lawyer and social worker, have diplomatic immunity?

Senator Herrera: I understand now that the labor attache has diplomatic immunity.

Senator Rasul: But the welfare officers, do they not have?

Senator Herrera: The welfare officers do not have that. It

is only, of course, the ambassador and, I understand, the consul, and the labor attache.

Senator Rasul: In that case, I wonder Mr. President, what utility they would have if they do not enjoy diplomatic immunity. They cannot visit the prisons, they cannot escort runaways, they cannot move around because — well, I am again talking of the Middle East, especially Saudi Arabia where one needs to be a diplomatic officer, or even if one is a labor attache, he has to have diplomatic immunity to be able to deal with offices in the Government.

Now, if we were to provide that privilege or that protection to the labor officers or the lawyer or the social worker, it seems to me, Mr. President, that this would be duplicating the work of the Assistance to National Unit of the Department of Foreign Affairs which exists precisely for that same purpose — to provide assistance to Filipinos who are in distress or who find themselves confronted with some problems which the labor attache cannot handle. The labor attache is there mainly for labor problems. But all other matters, all other problems, it is handled by the assistance to national unit.

Now, if we were to provide a lawyer for the welfare of this Center, we would be duplicating the work of the Assistance to National Unit which is better-situated to protect the interest and the welfare of the OCWs rather than having this Welfare Center look after their interest.

Senator Herrera: Well, the Welfare Center is one of our instruments to assess migrant workers. We know very well in Saudi Arabia, which the distinguished Senator is very familiar with, at a given time we will find several workers, especially those runaways staying in our welfare center. Many of them are in need of advice. That is where the justification for this provision is made.

Unfortunately, the existing Welfare Center that we have is practically lacking of that support. We do not have social workers there. The case of Flor Contemplacion is one good example where she was not able to have access to legal advice.

Now, on the function of this office, I can see certain limitation. As the Lady Senator said, the diplomatic immunity is very important. In this country-team approach, it is really the ambassador who is the one responsible in the entire overseas workers servicing of the embassy.

Senator Rasul: Mr. President, during the proper time I will introduce some amendments. I feel that the Assistance to National Units should be strengthened. There is no reason why the ANU and the Welfare Center cannot coordinate their efforts

to protect the OCWs who find their way to the Center for one reason or another. Unless they have diplomatic immunity, they will just be in the Center, Mr. President.

I recall during the Gulf war, when our evacuees from Kuwait went through the eastern province, the ANU people had to meet them at the border and then bring them to the Welfare Center or bring them back to the consulate or to the embassy because the welfare officer cannot do the job. So, we created there a position, an office or an entity which cannot serve its purpose. But we have an existing one which can readily do it. All it needs is a strengthening — maybe more personnel, maybe more funding support.

Senator Herrera: Well, we can strengthen both. If we will recall, our Welfare Centers in the Middle Eastern countries are practically the centers of activities of our overseas workers. These are where they converge; these are where they meet our labor attaches and welfare officers. It is difficult to quantify or measure the services of these labor centers, but I find it very important.

I recall when we were in Jeddah, at that time, there were about 119 domestic helpers who ran away from their employers staying there, and they were serviced by our Welfare Officers. We cannot measure the services they extended to these workers.

Senator Rasul: There is no doubt, Mr. President, that there is really a need to have a Welfare Center for our OCWs. But what then would be the function of the ANU, the Assistant to the National Unit? What will they be doing?

Are they there to protect the OCWs or Filipinos who find themselves in a problematic situation? Not just overseas contract workers, but other Filipino nationals who are not contract workers.

Senator Herrera: Probably this is where they should concentrate — the nonworkers or the immigrants in these areas. That is where they can perhaps focus their attention. The Welfare Officers will be for the overseas workers.

Senator Rasul: This bill really is very innovative, Mr. President.

We have also here a Migrant Workers Loan Guarantee Fund. What would be the rationale for this Fund, Mr. President?

When the OCWs go abroad, it is presumed that they earn something, and they are able to send money to their families. Would we not be accused of overly protecting or providing support for people who are already earning when there are

Filipinos who are unemployed and who have no means of looking for capital to fund maybe some small businesses that they want to engage in?

Senator Herrera: This Fund is a guarantee fund so that when these workers secure credit to pay for the placement fees, they do not have to sell their properties or go to loan sharks. Under this bill, the GFIs, or the government financial institutions, are mandated to come out with a scheme to extend credit for purposes of paying the placement fee. This will be guaranteed by this P100 million placement fund.

What is happening now is that, many of these overseas workers are required to pay exorbitant fees, especially those going to Taiwan or Korea. In fact, even in the Middle East, I recall of those over 100 domestic helpers staying at the Welfare Center. I talked to the two of them and they confided to me that they paid P19,000.00 to their recruiters. Unfortunately, the recruiter was a member of the House of Representatives before. They paid P19,000.00 which is very much overpriced because what is allowed is only P5,000.00. The poor workers had to mortgage their houses for the placement fees. We are trying to address this problem now.

At this juncture, the Presiding Officer, Senator Webb, relinquished the Chair to Senator Mercado.

Senator Rasul: There is created here a Legal Welfare Commission which is lodged in the Office of the President. I cannot quite comprehend the logic for having a Legal Welfare Commission to protect overseas workers but is right here in the country. I think it would be more useful if such an office is found within the premises of the Embassy, or as part of the Embassy. The Embassy has a legal staff but they do not have people with the expertise to protect the OCWs.

Mr. President, I do not know, maybe the Gentleman can explain to us why we have a Legal Welfare Commission under the Office of the President. How can they react to problems of the OCWs abroad?

Senator Herrera: I am glad that the Gentle Lady raised this question because this is really one of the recommendations of the Gancayco Commission and this is taken from the bill of Senator Ople.

The idea here, Mr. President, is that this Legal Welfare Commission handles the cases overseas because on cases, like illegal recruitment, in the country, we have the free legal service of the Department of Labor created also under this bill. The Legal Welfare Commission, under this new mandate, is allowed to hire foreign lawyers if our own lawyers cannot or are not

allowed to practice in a particular country because there are countries which require licensing of these lawyers in their own country before they can practice. So, there are certain restrictions.

The Commission is not really a big bureaucracy, considering that lawyers may come from various agencies of the government — the Department of Justice, the Department of Foreign Affairs, or the Department of Labor. They are attached to the Office of the President because we would like the Office of the President to be accountable when there are failures to extend legal assistance to migrant workers who have legal problems abroad.

The case of Flor Contemplacion is a classic example of this, where, from the time she was arrested, she should have been afforded a lawyer in order that her rights under the laws of Singapore would be fully protected.

So, we are trying to address this problem, and there is a debate as to where this Commission should be attached. In fact, Justice Gancayco, when asked as to where this Commission should be attached, recommended that it should be with the Department of Foreign Affairs for purposes of effective coordination since the Department of Foreign Affairs is the office which has extension overseas. But on the other hand, there is also good justification to put it under the Office of the President because when it is under the Office of the President, it can really exercise also some degree of clout, so that lawyers that they may tap from the other agencies will really perform their work, and the Office of the President will be made accountable when there is failure.

Senator Rasul: Would not that be imposing, Mr. President, too much responsibilities on the Office of the President since it is already overburdened with other matters of the State? And would not the Ambassador be a better person to choose, to hire the lawyer who would attend to the cases of the Filipino contract workers right within the area of his responsibility?

Senator Herrera: Well, in effect, there can be close coordination in the hiring of foreign lawyers with our Embassy. But we are just lodging the responsibility in this Commission.

If the Gentle Lady recalls, the President issued a Letter of Instruction allocating P100 million for the legal fund. This is the fund now that we are using for this Legal Welfare Commission.

Senator Rasul: Can the legal fund not be there, Mr. President, but to be tapped by the embassies as fees for the lawyers they would want to hire in the host country?

Senator Herrera: If we really have to make a choice where to put or locate this in the existing departments, I would suggest

it should be the Department of Justice because it is there where they are trained to prosecute. They are really engaged in actual lawyering; not in the Department of Foreign Affairs or in the Department of Labor. The recommendation here is to put this under the Office of the President.

But let us debate on this and maybe in the period of amendments, we can make some adjustments. Let us try to study the pros and cons whether it should be placed under the Office of the President or the Department of Foreign Affairs.

Senator Rasul: What would be the difference between this Legal Welfare Commission and the Commission on Human Rights?

Senator Herrera: Well, for one, the Commission on Human Rights' jurisdiction is not only limited to migrant workers. This is a Constitutional Body primarily more for the protection of citizens from abuses committed by Government. This office, the LWC, is to assist our own overseas workers.

Senator Rasul: Can the Commission not also assist the OCWs in cases where their human rights are violated?

Senator Herrera: I do not see any restriction on that. I recall that even in the Flor Contemplacion case, the Human Rights Commission was also asked to investigate. But the cases that will be handled by this Legal Welfare Commission are not only limited to human rights violation. These cases can also be work-related overseas.

Senator Rasul: Mr. President, Section 28 provides for reporting to Congress, "to update Congress on the situation of Filipino migrant workers." I wonder how this law can compel departments to report to Congress.

If the distinguished Gentleman will recall, during the last Congress, we passed Republic Act No. 7192. Republic Act No. 7192 mandates the Government to allocate substantial funds to provide the capital for women, especially in the rural areas, so that they can start a little business of their own. That Senate Bill No. 1200, which we sponsored, was the answer to the plight of Filipino women who go abroad to work as domestics or as entertainers. Because they cannot find any work here in the country, they had to go abroad and seek employment.

That law also provides for a reporting system where the departments involved had to report to Congress, I think, twice a year. So far, this Representation have no knowledge of any report that has been submitted to the Senate that has to do with the implementation of R. A. No. 7192. And yet, R. A. No. 7192, if implemented, could be the answer to the likes of the Flor

Contemplation case which we find all over the world, Mr. President.

Senator Herrera: I think it is our own failure if we do not insist on the enforcement of this particular mandate of the law. All we have to do is not to take up their budget during budget hearings if they will not submit the report that we require of them.

Senator Rasul: That is a good strategy, Mr. President. I think Congress has to start flexing its arms.

We also find the need to have five sectoral representative for migrant workers in Congress.

How many sectoral representatives do we actually have now?

Senator Herrera: There are 25 under the Constitution. This is actually limited because this is only for the 10th Congress. Under the Constitution, after 1998, there will be no more sectoral representatives. So, this is only for the 10th Congress.

Senator Rasul: Only for this year.

Senator Herrera: This year, 1995 up to 1998. After that, this law becomes ineffective because it is no longer allowed under the Constitution.

Senator Rasul: Does the Gentleman not think that there are sectors that are not represented at all in the House?

For example, during this Congress I do not know of any sectoral representative representing the Muslims and the cultural minorities, and yet they number in millions. I think the number of Muslims and cultural minorities is over 10 million, and they do not have a single representative except, of course, the late Congressman Sibug who stayed only for a short while. But there has been no representation from the Muslim sector.

Now, if we are to give five representatives to the overseas contract workers, that would give them 20 percent of the total representation. What happens to the other sectors, the women sector, which number more than 50 percent of the Filipino population?

Senator Herrera: The women sector is represented in this Congress, I think, two or three.

Senator Rasul: Only one.

Senator Herrera: No. We have Justice Luciano and then

that old lady, the President of the...

Senator Rasul: She represents the senior citizens, Mr. President.

Senator Herrera: I do not think that there is a representative for senior citizens because it is not included among the sectors enumerated in the Constitution.

The problem of appointing a Muslim sectoral representative probably can just be worked out with the President. I am sure that the Senator has an easy access to the President and she can recommend.

Senator Rasul: Well, perceptions can be misleading, Mr. President.

Anyway, there is this section that would provide funding support for scholarship program to deserving immediate descendants of OCWs.

Now, what could be the justification, Mr. President? The OCWs have income of their own, while we have millions of Filipinos who do not earn anything at all. If we are to provide scholarships for the children or descendants of OCWs who earn dollars, what about the indigents who have nothing at all? How will they be able to send their children to school? Would this not be unduly giving everything to the OCWs?

Not that I begrudge them this privilege, but I am also thinking of the other sectors which do not enjoy similar privileges from the Government.

Senator Herrera: I do not think we are discriminating the other sector, Mr. President, because if we will look at the present budget of the DOST, if I am not mistaken, there is about P50 million for scholarship program in the field of science and technology. This is open to all deserving Filipinos. I am sure that in the Department of Education there is also an amount for scholarship program.

This particular provision here, Mr. President, is intended for dependents and immediate descendants of overseas workers who are interested to pursue higher education in science and technology. The reason for this is that many of our overseas workers — and I would like to correct the impression that they are receiving so much — are in fact receiving salaries or wages below the minimum standard that we have here, especially the undocumented, the unskilled workers.

They have to go abroad, leave their families here in order to find jobs because of poverty. And they cannot find jobs here.

These are the classes in our society who are vulnerable to certain risks, Mr. President. These are the people in our society who contribute so much to our economy. The estimate based on the amount remitted by these workers is about \$18 billion in two years. It is important that we have to show some kind of appreciation of what they are doing for our country.

Senator Rasul: Mr. President, the OCWs are truly fortunate to have a champion in the person of the distinguished Senator from Cebu and Bohol.

Senator Herrera: I think, Mr. President, the Gentle Lady is just too modest. I know that deep in her heart, she is also a champion of the overseas workers.

SUSPENSION OF THE SESSION

May I ask for a one-minute suspension of the session, Mr. President?

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

It was 7:11 p.m.

RESUMPTION OF THE SESSION

At 7:17 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]: The session is resumed.

Senator Romulo: Mr. President, I ask that the distinguished Gentleman from Bicol and Aklan, Senator Tatad, be recognized to interpellate.

The Presiding Officer [Senator Mercado]: The Chair recognizes Senator Tatad.

Senator Tatad: Thank you very much, Mr. President. Due to the lateness of the hour and the need to abbreviate the proceedings, I shall try to be very brief.

First, a question of principle, Mr. President. This bill is a direct response to recent developments touched off by the Flor Contemplacion case. So we are here specifically looking at the problems of our overseas workers or migrant workers, as they are called in this bill, and their rights that need to be protected. But there is a fundamental issue, bigger than the rights of migrant workers, which refers to these workers not simply as workers but as Filipinos abroad in search perhaps of identity, in search of self-esteem.

My impression, Mr. President, is that if we institutionalize the term "migrant workers" in the law, we would simply be institutionalizing the problem.

The term "migrant worker" has a colonial origin. It goes back to the colonial times when imperial powers brought workers to colonies in order to produce things for them. My impression is that this bill should afford us an opportunity to provide a new concept or a new term that would embrace these migrant workers, as we call them, and all other Filipinos abroad. I wonder if the distinguished Sponsor could respond to that issue.

Senator Herrera: The bill, Mr. President, is more consistent to the United Nations's and ILO's definition of migrant workers.

I do not see the problem mentioned by the Gentleman that we might be perpetuating by using this term "perpetuating the migrant workers". It is clearly enunciated in the statement of policy that this is a temporary program. The reality is, they are there.

A more stable approach to the problem of migrant workers is to improve and stabilize the economy so that we will be able to attract these migrant workers to come back and be integrated into our own economy.

The policy statement in this bill has several implications. One of these implications in order to give meaning to the bill, is that the Government is mandated to come out with activities that would facilitate or pave the way for the integration of these migrant workers into our own economy. One of them is, of course, retraining these workers as we develop our economy.

So, if the apprehension of the distinguished Senator from Bicol is that this might be understood as a program to perpetuate, then I assure the Gentleman that it is clearly defined in the bill not as a permanent program.

Senator Tatad: Thank you for that statement, Mr. President.

Now a very important point came out in the hearings of the Committee of the Whole, and this point is reflected in Letter C of the Declaration of Policies. It says that "the State does not promote overseas employment as a means to sustain economic growth and achieve a national development."

I think we all share this point of view. The State does not and should not export labor. Filipino individuals seek employment overseas on their own and the task of Government is to facilitate the departure of these workers and to provide protec-

tion for their rights in all circumstances.

If this is the case, as we understand it, then the term "deployment of Filipino workers overseas" seems to be out of place.

Senator Herrera: Mr. President, if the Gentleman will read the entire text of the bill, he will find that there are supportive provisions to the policy statement; that it is a temporary program, and that the government should not promote overseas employment.

One of the important provisions here is the deregulation. It means that it will be a voluntary agreement between the worker and the principal, if he has to work abroad.

Second is that, there is this empowerment program for the workers. One of these empowerment programs is to develop skills so that these workers can be reintegrated and they can find jobs in our own economy. And if at all they have to go abroad, their skills will assure them remunerative jobs and protection because skill, to me, is a very important protection against exploitation and abuses.

There is a provision here, Mr. President, providing support for livelihood programs so that there is economic empowerment of these workers through self-reliance program by giving them access to financial support that they can use to engage in entrepreneurial activities. All these provisions are intended to support or give meaning to this policy of not promoting overseas employment.

On the other hand, Mr. President, the bill also provides mechanism and assistance to the existing migrant workers as an acceptance of the reality that migrant workers are here and that they have to be assisted.

Senator Tatad: I appreciate the point being made by the distinguished Sponsor, Mr. President. I share fully everything that has been said. The only point I am trying to make here is that I am uncomfortable with the term "deployment of overseas workers", because it is a very active word which means that the Government is the one deploying workers abroad when in fact the policy says the Government does not promote overseas employment as a means to sustain economic development.

So I am just questioning the usage of the word "deployment" in the sense that it puts the Government as the actor, the principal source of the effort to deploy, and this is not the concept we are trying to bring into the bill.

Senator Herrera: I understand what the distinguished

Gentleman is trying to point out, Mr. President. The policy of discouraging or making it a temporary program is a long-term policy which is to reintegrate, to provide jobs at home — here in the Philippines — for these workers. But right now, there is this regulatory body which, in effect, the intervention of the Government in the recruitment of these workers can be considered an active role in the deployment. But this will be gradually phased out within the period of five years.

We will note that a provision here in the deregulation, the Department of Labor and Employment is given five years for a gradual phase out because we cannot just do it in one strike. I mean, if we cannot do it tomorrow, we really have to do it by stages.

This is now the concept, the policy direction that deployment of workers will be deregulated. So that after five years, if at all there will be a worker working abroad, that he is now on his own and voluntary on his part, and the terms and conditions will be worked out between him and his principal — the employer. The Government has nothing to do with it, except that the role of the Government will be to strengthen the agencies of the Government that will protect the rights of the workers based on the terms and conditions of their employment and to see to it also that his interests and welfare when he is abroad are also protected.

Senator Tatad: Given that statement, Mr. President, I hope the distinguished Sponsor will be hospitable to a proposal, at the proper time, to provide the phraseology that would capture more appropriately and more accurately what has been said. Probably, we can speak in the bill of temporary deployment.

Mr. President, let me proceed to one or two more points.

The bill speaks of a country-team approach in responding to the needs of our overseas workers. And under this country-team approach, the Ambassador will be in charge of all the other officers coming from the various agencies having to do with looking after our overseas workers. This means that specifically the Ambassador is in charge.

Institutionally, does this mean that the Department of Foreign Affairs becomes the primary agency responsible for the protection of overseas workers? If this is so, what becomes of the Department of Labor and Employment and the related agencies?

Senator Herrera: The Department of Labor is responsible within the jurisdiction of the country. The Labor Attaches, although they are officials of the Department of Labor, in their post abroad, they are under the supervision of the Ambassador.

Under this country-team approach, all agencies, all officials and personnel in charge of servicing the workers will now work as a team with the Ambassador as the leader of the team. In that way, we pinpoint responsibility.

I think this is a very good development because there are incidents in the past where we have the Labor Attache and the Ambassador quarreling; we have the Labor Attache and the Ambassador competing to perform the job of servicing the workers. With this now, it is clearly defined that the Ambassador is the head of the team.

Senator Tatad: I thank the Gentleman for that statement, Mr. President.

There are a few things I was hoping to find in the bill but they are not there. Would the distinguished Sponsor care to consider the possibility of inserting somewhere in the bill a provision that would acknowledge the need for the policy on this issue to evolve on a continuing basis, and in that respect, for a policy advisory council, for instance, to be constituted coming not only from Government but from the private sector, say the NGOs, welfare organizations, Church and other institutions, to enable them to submit their inputs to the appropriate agencies in a way that would be helpful to the objectives being sought by the bill.

Senator Herrera: I do not think there will be a problem on that, Mr. President. In fact, this is being done now by the Department. They have this tripartite consultation in almost all industries. Probably, they can institutionalize this in the case of overseas employment.

Senator Tatad: Another point, Mr. President, as I see it, would be the need to have a systematic building of a data bank on all overseas workers. Perhaps we can institutionalize that with the consent of the distinguished Sponsor?

Senator Herrera: I think that is a very important suggestion. Although I have been assured that this is being done now by the POEA and the OWWA, I can see the urgency to institutionalize this. Everytime we have the budget hearing of the OWWA and the POEA, we always have a problem of data and information.

Senator Tatad: In that respect, I wonder if the distinguished Sponsor would consider a third suggestion — the need to ensure continuing research and studies on all aspects of life and work of Filipinos abroad. Perhaps, in this respect, we could provide for assistance to academic institutions to carry out this very important work.

Senator Herrera: Frankly, Mr. President, that is where I

have an aversion when it comes to funding academic institutions to conduct research on matters like this. At one time, I handled the DOST budget and I noticed that there were several millions used for that only to be spread to, sort of network, as an additional honorarium to certain members of the academe and the result is not really useful to the Government. So I wish there should be a better way of handling this problem rather than again providing funds for some things that we cannot be assured of its result.

Senator Tatad: In any case, the main proposal there, Mr. President, is for continuing studies and research to help the formulation of policy on a continuing basis, and I submit that to the wisdom of the distinguished Sponsor.

My last issue, Mr. President. I refer to Section 29, and this has been touched upon by the previous speakers. This has to do with the representation of overseas Filipinos in Congress.

The proposal states:

Pursuant to Section 5(2) Article VI of the Constitution and in line with the objective of empowering overseas Filipinos to participate in the policy-making process to address Filipino migrant concerns, five (5) sectoral representatives for migrant workers in the House of Representatives shall be appointed by the President on the basis of proportional representation from the regional distribution of migrant workers.

I should like a little clarification on this phrase "from the regional distribution of migrant workers." What does "regional distribution" mean?

Senator Herrera: We would like to assure the distinguished Gentleman, Mr. President, that it is not only the migrant workers in the Middle East who will be represented but also those in Southeast Asia and in Europe.

Senator Tatad: Now, by "regions", do we refer to the areas where they are working...

Senator Herrera: Where they are employed.

Senator Tatad: ...not the areas where they come from?

Senator Herrera: ...No, otherwise we will take the risk of having all Ilocanos there.

Senator Tatad: Mr. President, earlier in the bill, there is mention of absentee voting to be facilitated. This is the subject of another legislation but it is the desire of this bill that this be instituted immediately.

Now, if we envision the overseas workers participating in the electoral process, should they not elect their own representatives to Congress?

Senator Herrera: Unfortunately, Mr. President, consistent with the provision of the Constitution, the sectoral representative is only for 1995 up to 1998 because after 1998, there will be no more appointed sectoral representative in Congress. So this is only for one term.

Senator Tatad: My question, Mr. President, is why should the one representing these people be appointed by the President when they are going to be voting under the absentee-voting law if that is passed? Why should they not be allowed to vote for their own representative to Congress? Is there a constitutional impediment to that?

Senator Herrera: There is no constitutional impediment. On the other hand, there is also that constitutional mandate that we shall have 25 sectoral representatives and of the 25 sectoral representatives, overseas workers sector is among the six sectors to be represented. So this is in compliance with that provision.

Senator Tatad: This is an enabling legislation.

Senator Herrera: An enabling provision.

Senator Tatad: But if the distinguished Sponsor says that beyond 1998 the appointing facility will no longer be there, why do we not institutionalize in the law the election of overseas representatives by the overseas workers themselves?

Senator Herrera: This is more of an enabling provision of the Constitution. This has a very limited application since this is only from 1995 up to 1998, the three-year term for the 10th Congress, specifically.

Senator Tatad: So beyond that, the distinguished Sponsor will be sponsoring the other proposal later?

Senator Herrera: The Constitution does not allow for the appointment anymore.

Senator Tatad: Thank you very much, Mr. President.

Thank you very much, Senator Herrera.

Senator Herrera: Thank you.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Mercado]: The Majority

Leader is recognized.

Senator Romulo: That ends the interpellation, Mr. President. I therefore move that we close the period of interpellations.

The Presiding Officer [Senator Mercado]: Is there any objection to the motion? [*Silence*] Hearing none, the motion is approved.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I move for a one-minute suspension of the session in the event that Senator Herrera is prepared to propose the Committee Amendments.

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

It was 7:40 p.m.

RESUMPTION OF THE SESSION

At 7:41 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]: The session is resumed.

Senator Romulo: Mr. President, I move that we now consider the amendments. First, the committee amendments, if any.

COMMITTEE AMENDMENTS

Senator Herrera: We have a number of committee amendments.

On page 7, line 6, delete the word "offer" between the words "prosecution" and "and" and insert the capitalized word "OFFICER".

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: On page 12, line 7, between the word and comma symbol "practicable," and the word "pursue", insert the capitalized phrase AND THROUGH THE LEGAL WELFARE COMMISSION FOR MIGRANT WORKERS CREATED UNDER THIS ACT.

The Presiding Officer [Senator Mercado]: Is there any objection?

Senator Herrera: Excuse me, Mr. President. Since there is also an amendment in Section 18, may I ask for a reconsideration.

The Presiding Officer [Senator Mercado]: Shall we repeat the line?

Senator Herrera: On page 12, line 7, between the word and comma symbol "practicable," and the word "pursue", insert the capitalized phrase AND THROUGH THE PRESIDENTIAL LEGAL ASSISTANT FOR MIGRANT WORKERS AFFAIRS CREATED UNDER THIS ACT.

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, the amendment is approved.

SUSPENSION OF THE SESSION

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

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

It was 7:42 p.m.

RESUMPTION OF THE SESSION

At 7:43 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]: The session is resumed.

Senator Herrera: On page 13, line 27, between the words "Section" and "hereof", change the number "20" to "22".

The Presiding Officer [Senator Mercado]: Is there any objection to the amendment? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: On page 14, line 31, delete the word and quotation symbol "Fund" between the words "the" and "in" and thereafter insert the capitalized phrase LEGAL ASSISTANCE FUND.

The Presiding Officer [Senator Mercado]: Is there any objection to the amendment? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: On page 15, line 13, insert the capitalized words "LEGAL ASSISTANCE" between the words "the" and "FUND".

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: On the same page, line 13, decapitalize the letter "f" in the word "Fund".

The Presiding Officer [Senator Mercado]: Is there any objection to the amendment? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: On the same page, line 27, insert the capitalized phrase "SERIES OF 1993" after the phrase "Order No. 74,".

The Presiding Officer [Senator Mercado]: Is there any objection to the amendment? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: On page 17, line 26, after the word and period symbol "workers.", insert the following proviso: PROVIDED, THAT TWO (2) OF THE FIVE (5) SECTORAL REPRESENTATIVES SHALL COME FROM THE WOMEN MIGRANT WORKERS SECTOR.

The Presiding Officer [Senator Mercado]: Is there any objection to the amendment? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: On the same page, line 27, delete the word "The" and thereafter, insert the following capitalized phrase: "PROVIDED FURTHER THAT ALL".

The Presiding Officer [Senator Mercado]: So, the line would read....?

Senator Herrera: The line will read: "PROVIDED FURTHER THAT ALL nominees must have at least five (5) years experience as a migrant worker."

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: On page 18, between lines 6 and 7, insert a new Section 32, to read as follows:

SEC. 32. THE CONGRESSIONAL MIGRANT WORKERS' SCHOLARSHIP FUND. - THERE IS HEREBY CREATED A CONGRESSIONAL MIGRANT WORKERS SCHOLARSHIP FUND WHICH SHALL BENEFIT DESERVING MIGRANT WORKERS AND/OR THEIR IMMEDIATE DESCENDANTS BELOW TWENTY (20) YEARS OF AGE WHO INTEND TO PURSUE COURSES OR TRAININGS PRIMARILY IN THE FIELD OF SCIENCE AND TECHNOLOGY.

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: THE INITIAL SEED FUND OF TWO HUNDRED MILLION PESOS (P200,000,000.00) SHALL BE INSTITUTED FROM THE FOLLOWING SOURCES:

1. FIFTY MILLION (P50,000,000.00) FROM THE UNEXPENDED COUNTRYWIDE DEVELOPMENT FUND (CDF) FOR 1995 IN EQUAL SHARING FOR ALL MEMBERS OF CONGRESS.

2. REMAINING ONE HUNDRED FIFTY MILLION (P150,000,000.00) WILL BE FUNDED FROM THE PROCEEDS OF THE LOTTO DRAW.

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, the amendment is approved.

SUSPENSION OF THE SESSION

Senator Herrera: May I have a one-minute suspension of the session?

The Presiding Officer [Senator Mercado]: Before I suspend the session, as a consequence of the amendment, all of the other sections will be renumbered accordingly.

Senator Herrera: Yes, Mr. President.

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

It was 7:47 p.m.

RESUMPTION OF THE SESSION

At 7:48 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]: The session is resumed.

Senator Herrera: On page 18, entries from lines 11 to 17 will be deleted.

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, lines 11 to 17 are hereby deleted.

Senator Herrera: And then, Section 33, still on page 18, insert the following: THE DAY OF SIGNING BY THE PRESIDENT OF THIS ACT SHALL BE DESIGNATED AS

THE 'PHILIPPINE MIGRANT WORKERS DAY' AND SHALL HENCEFORTH BE COMMEMORATED AS SUCH ANNUALLY.

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Herrera: Those are all the amendments, Mr. President.

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

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, the motion is approved.

Senator Romulo: Mr. President, I move that we consider the individual amendments. May I ask that Senator Gonzales be recognized.

The Presiding Officer [Senator Mercado]: Senator Gonzales is recognized.

GONZALES AMENDMENTS

Senator Gonzales: On page 4, between the last paragraph of Section 5, insert a new paragraph to read as follows:

THE PERSONS CRIMINALLY LIABLE FOR THE ABOVE OFFENSES ARE THE PRINCIPALS, ACCOMPLICES AND ACCESSORIES. IN CASE OF JURIDICAL PERSONS, THE OFFICERS HAVING CONTROL, MANAGEMENT OR DIRECTION OF ITS BUSINESS SHALL BE LIABLE.

The Presiding Officer [Senator Mercado]: What does the Sponsor say?

Senator Herrera: It is accepted, Mr. President.

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

Senator Gonzales: Between Section 5, paragraph (b), and Section 6, insert a new section, the number of which will be indicated later, and the caption would be: PROHIBITION ON OFFICIALS AND EMPLOYEES. The body of the provision is as follows:

IT SHALL BE UNLAWFUL FOR ANY OFFICIAL OR EMPLOYEE OF THE DEPARTMENT OF LABOR AND

EMPLOYMENT, THE POEA OR THE OWWA, OR THEIR RELATIVES WITHIN THE FOURTH CIVIL DEGREE BY CONSANGUINITY OR AFFINITY, TO ENGAGE, DIRECTLY OR INDIRECTLY, IN THE BUSINESS OF RECRUITING MIGRANT WORKERS AS DEFINED IN THIS ACT. THE PENALTIES PROVIDED IN THE NEXT PRECEDING PARAGRAPH SHALL BE IMPOSED UPON.

The Presiding Officer [Senator Mercado]: What does the Sponsor say?

Senator Herrera: It is accepted, Mr. President.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Gonzales: In the second paragraph of Section 7, second line, remove the word "automatically". They shall be entitled to the Witness Protection Program, but the law itself provides for certain procedures for admission into the program.

The Presiding Officer [Senator Mercado]: What does the Sponsor say?

Senator Herrera: It is accepted, Mr. President.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] There being none, the amendment is approved.

Senator Gonzales: On page 7, Section 10, after the word "several" in the second paragraph. This has reference to the paragraph which reads: "The liability of the principal and the recruitment/placement agency or any and all claims under this Section shall be joint and several." I propose to add the following amendment:

THIS PROVISION SHALL BE INCORPORATED IN THE CONTRACT FOR OVERSEAS EMPLOYMENT AND SHALL BE A CONDITION PRECEDENT FOR ITS APPROVAL. THE PERFORMANCE BOND TO BE FILED BY THE RECRUITMENT/PLACEMENT AGENCY AS PROVIDED BY LAW SHALL BE ANSWERABLE FOR ALL MONEY CLAIMS OR DAMAGES THAT MAY BE AWARDED TO THE WORKERS. IF THE RECRUITMENT/PLACEMENT AGENCY IS A JURIDICAL BEING, THE CORPORATE OFFICERS AND DIRECTORS AND PARTNERS, AS THE CASE MAY BE, SHALL THEMSELVES BE JOINTLY AND SOLIDARILY LIABLE WITH THE CORPORATION OR PARTNERSHIP FOR THE AFORESAID CLAIMS AND DAMAGES.

The Presiding Officer [Senator Mercado]: What does the Sponsor say?

Senator Herrera: It is accepted, Mr. President. This is what we have agreed during the interpellation.

Senator Gonzales: Another sentence after that. SUCH LIABILITY SHALL CONTINUE DURING THE ENTIRE PERIOD OR DURATION OF THE EMPLOYMENT CONTRACT AND SHALL NOT BE AFFECTED BY ANY SUBSTITUTION, AMENDMENT, OR MODIFICATION MADE LOCALLY OR IN A FOREIGN COUNTRY OF THE SAID CONTRACT.

Senator Herrera: It is accepted, Mr. President.

The Presiding Officer [Senator Mercado]: Is there any objection? Hearing none, the amendment is approved.

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

Senator Ople: Mr. President.

The Presiding Officer [Senator Mercado]: Senator Ople is recognized.

Senator Ople: Mr. President, we have additional amendments.

Delete Sections 18 to 21 on the Legal Welfare Commission appearing on pages 12 to 14, and in lieu thereof, substitute the following provision, to read as follows:

SEC. 18. PRESIDENTIAL LEGAL ASSISTANT FOR MIGRANT WORKERS AFFAIRS. - THERE IS HEREBY CREATED THE POSITION OF "PRESIDENTIAL LEGAL ASSISTANT FOR MIGRANT WORKERS AFFAIRS" UNDER THE OFFICE OF THE PRESIDENT, WHO SHALL BE PRIMARILY RESPONSIBLE FOR THE PROVISION AND OVERALL COORDINATION OF ALL LEGAL ASSISTANCE SERVICES TO BE PROVIDED TO FILIPINO MIGRANT WORKERS.

THE SAID PRESIDENTIAL LEGAL ASSISTANT SHALL BE APPOINTED BY THE PRESIDENT AND MUST BE ONE OF PROVEN COMPETENCE IN THE FIELD OF LAW WITH AT LEAST TEN (10) YEARS OF EXPERIENCE AS A LEGAL PRACTITIONER.

AMONG THE FUNCTIONS AND RESPONSIBILITIES OF THE AFORESAID LEGAL ASSISTANT ARE:

(A) TO ISSUE THE GUIDELINES, PROCEDURES AND CRITERIA FOR THE PROVISION OF LEGAL ASSISTANCE SERVICES TO FILIPINO MIGRANT WORKERS;

(B) TO ESTABLISH CLOSE LINKAGES WITH THE DEPARTMENT OF FOREIGN AFFAIRS, THE DEPARTMENT OF LABOR AND EMPLOYMENT, POEA, OWWA AND OTHER GOVERNMENT AGENCIES CONCERNED, AS WELL AS WITH NON-GOVERNMENTAL ORGANIZATIONS ASSISTING OCWS, TO ENSURE EFFECTIVE COORDINATION AND COOPERATION IN THE PROVISION OF LEGAL ASSISTANCE TO OCWS;

(C) TO TAP THE ASSISTANCE OF REPUTABLE LAW FIRMS AND THE INTEGRATED BAR OF THE PHILIPPINES AND OTHER BAR ASSOCIATIONS TO COMPLEMENT THE GOVERNMENT'S EFFORTS TO PROVIDE LEGAL ASSISTANCE TO OUR OVERSEAS WORKERS;

(D) TO ADMINISTER THE LEGAL ASSISTANCE FUND FOR MIGRANT WORKERS ESTABLISHED UNDER SECTION ___ HEREOF AND TO AUTHORIZE DISBURSEMENTS THEREFROM IN ACCORDANCE WITH THE PURPOSES FOR WHICH THE FUND WAS SET UP; THE PRESIDENTIAL LEGAL OFFICER SHALL HAVE AUTHORITY TO HIRE PRIVATE LAWYERS, DOMESTIC OR FOREIGN, IN ORDER TO ASSIST HIM IN THE EFFECTIVE DISCHARGE OF THE ABOVE FUNCTIONS.

Senator Herrera: May we first approve that amendment, Mr. President.

The Presiding Officer [Senator Mercado]: What does the Sponsor say?

Senator Herrera: We accept the amendment, Mr. President.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Ople: May I continue, Mr. President?

On page 15, line 15, delete the word "such" at the end of the line and substitute it with the word "THE";

The Presiding Officer [Senator Mercado]: What does the Sponsor say to that?

Senator Herrera: We accept the amendment, Mr. President.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Ople: Mr. President, on the same page, line 16, insert the word "CRITERIA" between the words "guidelines" and "procedures". Also on the same line, delete the words "as may be" and insert the words "IN ACCORDANCE WITH SECTION 18(A) HEREOF" after the word "promulgated";

The Presiding Officer [Senator Mercado]: What does the Sponsor say?

Senator Herrera: We accept the amendment, Mr. President.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Ople: No. 4, on the same page, lines 16 and 17, delete the words "by the Commission" appearing after the word "promulgated";

The Presiding Officer [Senator Mercado]: What does the Sponsor say?

Senator Herrera: It is accepted, Mr. President.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] The amendment is approved.

Senator Ople: Finally, Mr. President, on the same page, line 19, delete the word "Commission" and substitute the words "PRESIDENTIAL LEGAL ASSISTANT FOR MIGRANT WORKERS' AFFAIRS."

The Presiding Officer [Senator Mercado]: What does the Sponsor say?

Senator Herrera: It is accepted, Mr. President.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] The amendment is approved.

Senator Ople: Those are all, Mr. President. Thank you.

Senator Romulo: Mr. President, I ask that we recognize Senator Alvarez.

The Presiding Officer [Senator Mercado]: Senator Alvarez is recognized.

Senator Alvarez: Mr. President, may I have the privilege to introduce my proposed individual amendments based on the conversation with the Chairman a while ago.

In the title, delete the word "Program".

The Presiding Officer [Senator Mercado]: Can we amend the title last?

Senator Alvarez: It is all right, Mr. President.

On Section 2(a), line 5 of page 1, add the words "DOCUMENTED AND UNDOCUMENTED" after the words "unorganized."

Senator Herrera: Mr. President, this provision is lifted from the provision of the Constitution. We will be distorting the provision of the Constitution.

The first two provisions on the Declaration of Policies are provisions of the Philippine Constitution.

SUSPENSION OF THE SESSION

The Presiding Officer [Senator Mercado]: The session is suspended for a few minutes.

It was 8:02 p.m.

RESUMPTION OF THE SESSION

At 8:04 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]: The session is resumed.

Senator Herrera: May I suggest, Mr. President, that we have a clean draft. Let us not close the period of amendments this evening. We can meet tomorrow so that Senator Alvarez will have the time to prepare the amendment.

Senator Alvarez: May I move that we have a clean draft, Mr. President, so that tomorrow I will see my way very clear because I have such a long set of proposed amendments. I would like to know the previous amendments introduced so that I will be able to set this appropriately.

May I reserve my period for tomorrow so that I can make the

appropriate introduction of the amendments, after the clean draft is printed.

The Presiding Officer [Senator Mercado]: It seems like a fair request and I believe the Sponsor agrees.

Senator Herrera: Definitely, Mr. President. I have been standing here for the past five hours.

Senator Alvarez: Perhaps, we should suspend the session, Mr. President.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Mercado]: The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 2077

Senator Romulo: Mr. President, the spirit is willing.

Mr. President, after discussing with the Chairman of the Committee of the Whole as well as our Colleagues, I move that we suspend consideration of Senate Bill No. 2077 until tomorrow.

The Presiding Officer [Senator Mercado]: Is there any objection? [*Silence*] Hearing none, the motion is approved.

Senator Romulo: Before we move for the suspension of the session, Mr. President, may I ask the Secretary to read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

The Secretary:

25 May 1995

Honorable EDGARDO J. ANGARA
Senate President
Senate of the Philippines
Senate, Manila

Dear Senate President Angara:

Pursuant to the provisions of Section 26 (2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 2077 entitled

AN ACT TO INSTITUTE THE POLICIES OF THE OVERSEAS EMPLOYMENT PROGRAM AND ESTABLISH A HIGHER STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF FILIPINO MIGRANT WORKERS AND FOR OTHER PURPOSES,

to meet the public emergency consisting of the need to provide additional, adequate, continuous and compassionate protection and safeguards to overseas Filipino workers as a necessary means of further protecting and promoting their rights and welfare as mandated under the Constitution.

Best regards.

(Sgd). FIDEL V. RAMOS

cc: Honorable Jose de Venecia
Speaker
House of Representatives
Batasang Pambansa Complex
Quezon City

The Presiding Officer [Senator Mercado]: Referred to the Committee on Rules.

Senator Romulo: Mr. President, tomorrow, we shall resume consideration of Senate Bill No. 2077. The Secretary has stated that we will have clean copies of Senate Bill No. 2077 with the Committee amendments and two or three individual amendments that have been proposed and accepted here.

We shall also take up for tomorrow proposed Senate Resolution No. 1143 on the International Convention on the Protection of the Rights of all Migrant Workers.

Both this resolution and bill, Mr. President, are certified by the President. So that after the amendments, we can approve them on Second Reading and, thereafter, go to Third Reading.

We shall also take up tomorrow the four or five bills for Third Reading, printed copies of which have already been distributed and, in accordance with the three-day rule, we can take them up on Third Reading tomorrow.

They are in the Calendar pending Third Reading.

MOTION OF SENATOR ROMULO
(Designation of New Members of the Senate Panel
on S. No. 1998)

Mr. President, in view of the resignation of some of our Colleagues, and in lieu of the former membership of the Senate panel on the disagreeing provisions of the Optometry Bill, may I now propose the new Senate panel — Senators Webb as Chairman, Shahani, Biazon, Romulo, Mercado, Herrera, and Maceda.

The Presiding Officer [Senator Mercado]: Is there any objection? [Silence] Hearing none, the motion is approved.

SUSPENSION OF THE SESSION

Senator Romulo: I move that we now suspend this evening's session until nine o'clock tomorrow morning.

The Presiding Officer [Senator Mercado]: The session is suspended until nine o'clock tomorrow morning, if there is no objection. [There was none.]

It was 8:09 p.m.

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 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 bang 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 ELECTORAL 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 ESTABLISH 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,

RECORD OF THE SENATE

SATURDAY, JUNE 3, 1995

RESUMPTION OF THE SESSION

At 11:11 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.

APPROVAL OF CONFERENCE COMMITTEE REPORT ON S. NO. 1998 AND H. NO. 14100

Senator Romulo: We have two Bicameral Conference Committee Reports that have been submitted and filed with the Office of the Secretary of the Senate. We will now consider their approval. The first is the Conference Committee Report on the disagreeing provisions of the Senate and House bills on "An Act Regulating the Practice of Optometry, Upgrading Optometric Education and Integrating Optometrists."

Mr. President, both the Senate and the House panels — the Senate panel headed by the distinguished Chairman of the Committee on Health and Demography, Senator Webb — have recommended the acceptance and the approval of the Conference Committee Report.

May I ask that the Chairman of the Senate panel, Senator Webb, be recognized.

The President: Senator Webb is recognized.

Senator Webb: Thank you, Mr. President.

This Representation is honored to seek the support and the ratification by this Chamber of an Act regulating the practice of optometry to ensure the quality and standards of vision care in the Philippines.

Vision care, more specifically, optometric services must be promoted as a regular component of the primary health care system. Both Houses of Congress see the importance of passing this Act for the said reason.

The focus of contention remains to be the proposal of prohibiting the indirect practice of optometry by corporations. We took a second look and even a third look at the issue in the bicameral conference, but a compromise remained elusive.

The House panel, however, agreed to adopt the Senate policy decision on the matter if the results of the extended consultations with Members of this august Chamber become unfavorable to the proposal.

The fate of this Act has remained hanging for an unreasonable length of time since it was first filed and passed during the Eight Congress and subsequently vetoed by President Ramos. The objectionable details, like fitting, and in dispensing and selling are subdued. The details of the vetoed bill were already remedied. This proposed Act already represents a reasonable compromise among all sectors concerned.

Mr. President, our vision for public health and welfare has always been clear and steady. This same vision will guide us today to respond and decide on this finally.

Maraming salamat po.

APPROVAL OF CONFERENCE COMMITTEE REPORT

The President: Is there any comment? [*Silence*]

Those who are in favor of the Conference Committee Report, please say *Aye*. [*Several Senators: Aye*] Those against, please say *Nay*. [*Silence*]

The Conference Committee Report is hereby approved.

EXPLANATION OF VOTE OF SENATOR SHAHANI

Senator Shahani: Mr. President.

The optometry bills have evoked controversial views from the Members of the panel. While we realize the need to uplift the standards of optometry as a profession, the consensus of both Houses was to avoid touching sensitive issues which properly belong to judicial determination. Thus, the bicameral conference committee decided to leave the issue of indirect practice of optometry and the use of trade names open to the wisdom of the Courts which are vested with the prerogative of interpreting the laws.

Mr. President, I know that there is so much to be desired in this measure but I still believe that the greater wisdom lies in taking a concrete step in the right direction. For this reason, increasing the optometry course from four (4) years to six (6) years holds great promise for us because professionalization of optometry is what we need today.

In keeping with new technology, our optometrists under this

Any act or omission which violates this Code shall be considered as unethical conduct and shall be suspended or prohibited from the practice of optometry, in accordance with Section 26 of this Act.

MISCELLANEOUS PROVISIONS

SEC. 41. *Separability Clause.* - If any provision of this Act or the application of such provision to any person or circumstances is declared invalid or unconstitutional, the remainder of this Act or the application of such provisions to other persons or circumstances shall not be affected by such declaration.

SEC. 42. *Repealing Clause.* - This Act repeals and supersedes Republic Act Nineteen hundred and ninety-eight (RA 1998), otherwise known as the Optometry Law. All other acts, executive orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 43. *Effectivity.* - This Act shall take effect fifteen days after its publication in the Official Gazette or two (2) national newspapers of general circulation.

Approved,

CONFERENCE COMMITTEE REPORT ON S. NO. 2077/H. NO. 14314 (Migrant Workers Act)

Senator Romulo: Mr. President, in the Conference Committee Report for the reconciliation of the Senate and the House versions on An Act to Institute Policies of the Overseas Employment and Establish a Higher Standard of Protection and Promotion of the Welfare of Migrant Workers and For Other Purposes, both the Senate and the House panels have recommended the acceptance and approval of the Conference Committee Report on the final bill on the assistance to migrant workers and overseas Filipinos in distress.

The Senate panel is chaired by the honorable Chairman of the Committee of the Whole and Chairman of the Committee on Labor and Employment, Senator Herrera, and the House panel is chaired by the Honorable Jaime Lopez.

For a fuller presentation of the Conference Committee Report, I ask that Senator Ernesto Herrera be recognized.

The President: Senator Herrera is recognized.

Senator Herrera: Thank you, Mr. President.

Mr. President, as Chairman of the Committee of the Whole, I am happy to report the bicameral conference result on the disagreeing provisions of House Bill No. 14314 and Senate Bill No. 2077.

The Bicameral Conference Committee Report, Mr. President, is signed by all the Members of the Senate panel, and on the part of the House, it is signed by eight of the 13 Members of its panel.

As we know, Mr. President, this is one of the two very controversial bills. In fact, this is one bill where during the bicameral conference, we declared a deadlock three times, simply because the bill of the House which is "An Act Providing a Magna Carta on Overseas Filipinos" talks of overseas Filipinos in general, while Senate bill No. 2077 focuses on migrant workers. In the course of the bicameral conference, the House was insisting on expanding the coverage to overseas Filipinos.

Mr. President, it took until the last minute last night, when the Speaker of the House called up and changed their position, to finalize and prepare this report which, as I have said, was signed by the majority of the Members.

Mr. President, basically, the report carries the Senate version, except Section 23 which we lifted from the House version agreed upon by the bicameral conference. Section 17 is a provision in the House bill and Section 31 is about professional and other highly skilled Filipinos.

The bill now, Mr. President, covers migrant workers and their families, which is consistent with the UN Convention on migrant workers and their families, and overseas Filipinos in distress which is defined in Section 23 and Section 26 of this bill.

With this, Mr. President, I am asking for the unanimous support of the Body.

The President: Is there any comment?

Senator Maceda: Mr. President.

The President: Senator Maceda is recognized.

Senator Maceda: Will the distinguished Chairman of the Senate conference committee panel answer a few clarificatory questions?

Senator Herrera: Gladly, Mr. President.

Senator Maceda: Mr. President, I signed this measure with reservations because, as the Chairman of the panel himself has repeatedly said, this is not going to assure the full and total protection of our OCWs abroad.

It will be recalled, Mr. President, that this bill was the product of the preelection public clamor and furor as a result of the Contemplacion hanging in Singapore. And from the very beginning, there was some suspicion expressed by many labor organizations ironically, questioning whether this bill is sufficient and, as a matter of fact, alleging that the bill by itself is not sufficient to really promote the interest of overseas workers.

Having said that, Mr. President, I would like to refer to Section 4 on the deployment of Filipino migrant workers.

The general policy statement here is: "The State shall deploy overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected."

May I know, for the record, when we say "rights of Filipino migrant workers" whether this would include the rights under the Bill of Rights of the Philippine Constitution and their rights under the United Nations International Charter on Human Rights.

Senator Herrera: As the Gentleman will note in this particular provision, Mr. President, we make it a policy that the deployment of Filipino workers must be made only in countries where there is an assurance of the protection, welfare and interest of the workers, the rights are respected because either there is a bilateral agreement or this country is a signatory to the multi-lateral agreement, or that in these countries, they have their own laws which protect the rights and interests of the workers.

Now, referring to the Bill of Rights — as the distinguished Senator said, Mr. President — it is very important that these countries, even if they are not a signatory or have no bilateral agreement with us from our own findings, have no record of violation of human rights and trade union rights. It is important also that in these countries, there should be a strong commitment to respect freedom of association which, in effect, is among the rights in the Bill of Rights.

Senator Maceda: I am glad that the distinguished Senator has mentioned one example — the matter of freedom of association which is a ticklish matter at issue, let us say, in a country like Saudi Arabia. Or to demonstrate a more serious problem, in Saudi Arabia, any Filipino attending mass or any priest saying Catholic mass is arrested. There are, I understand, quite a few Filipinos now in Saudi Arabian jails where their only "crime" is

that they were caught attending a Catholic mass.

How would this section now apply to that situation? Would this section now mean to say that we shall henceforth suspend the deployment of overseas Filipino workers to Saudi Arabia and other similarly situated Muslim countries in the Middle East?

Senator Herrera: What this section is trying to mandate, Mr. President, is to establish a criteria on countries where we deploy Filipino workers. Consistent with that, we are now requiring our Department of Labor and Employment and the Department of Foreign Affairs to submit a report to Congress so that we will know whether there are rampant violations of human rights and trade human rights; that in these receiving countries, there are not sufficient protection to our workers. This is a matter now that the Department of Labor and Employment and the Department of Foreign Affairs should apprise Congress periodically.

Senator Maceda: So, the distinguished Senator is saying, in effect, that countries where the Department of Foreign Affairs find violations of rights of Filipino contract workers assured by the Philippine Constitution as well as the United Nations International Charter on Human Rights would be covered by this section.

Senator Herrera: As I said, Mr. President, these are the criteria now that we are trying to establish in order that we can assure full protection to our overseas workers.

Senator Maceda: Let us go to the other point, Mr. President. Whether it is Kuwait, Singapore or Malaysia, how about the rights of Filipinos to have a fair trial, to be informed of charges against them, and to have assistance of counsel? Would that be within the ambit of this particular policy — that countries which do not give them these rights, the Filipino workers should not be deployed in these countries?

Senator Herrera: I agree that in countries where due process is not respected, we should not deploy our workers there.

Let me put it also in the *Record* that in many countries, perhaps in all countries, there is always this respect for due process. But sometimes, we are unable to assist our own overseas workers, to give full protection for due process in these countries. That is the reason we put in this particular bill a very important provision which is the legal assistance to our overseas workers.

Senator Maceda: I wish to thank the Gentleman for including some of our amendments or parts of the bill we have presented. To begin with, I wish to thank him for agreeing that

where the person illegally recruited is less than 18 years of age, the criminal penalty shall be imposed in the maximum.

For the record, may I refer now to Section 16, entitled: "Mandatory Repatriation of Underage Migrant Workers", and I read the final version:

Upon discovery or being informed of the presence of migrant workers whose actual ages fall below the minimum age requirement for overseas deployment, the responsible officers in the foreign service shall without delay repatriate said workers and advise the Department of Foreign Affairs through the fastest means of communication available of such discovery and other relevant information.

May I have a little more explanation for the record. First, how do we envision this to work in practice if the Philippine ambassador or an attache goes to a karaoke bar in Tokyo and sits with a few Filipino entertainers, and he discovers that they are 14, 15 and 16 years old? Shall he forthwith take custody of these people and repatriate them immediately?

Second, if these people are in jail, whether it is immigration, detention or what not in the city jail of Osaka or Kobe, what is the ambassador or the embassy supposed to do? Does it also mean, as it should, that the embassy shall forthwith pay for their repatriation home in spite of earlier provisions that this should be provided for by the employer or the recruiting agent?

Senator Herrera: Mr. President, I am glad that the Gentleman raised this question because this problem is more relevant in the case of Japan. This particular provision was really a response to the information given by no less than the former Ambassador to Japan, who is now the Secretary of Foreign Affairs. He found out, from his personal experience, that there are several Filipinos working there who are underage.

In the matter of the immediate repatriation of these workers, as the Gentleman may know, this is something that we really have to coordinate with the government of the receiving countries because there are also certain laws that we have to consider.

But let it now be an important policy, that our Department of Foreign Affairs should take the initiative of monitoring and conducting an inventory of overseas Filipinos, the migrant workers, in order to determine whether they are underage and who are in need of immediate protection so that they can be repatriated.

There is also a provision here for financial support, Mr. President, for their repatriation.

Senator Maceda: Mr. President, just two more points.

The Senate had given such emphasis to what used to be originally a Commission for Migrant Workers in connection with our Overseas Legal Assistance Fund. To begin with, it was changed to the Legal Welfare Commission for Migrant Workers under the Office of the President, and in a final version to Presidential Legal Assistant for Migrant Workers under the Office of the Department of Foreign Affairs.

For the record, could the Gentleman now explain why it seems that the position has been downgraded from Commission to Legal Welfare Commission for Migrant Workers, and then just to Presidential Legal Assistant for Migrant Workers under the Department of Foreign Affairs? I thought that the original context of this particular provision was to send a message that no less than the President himself is interested in this matter, and for that purpose he has agreed to the creation of a Presidential Legal Assistant for Migrant Workers Affairs.

Senator Herrera: If the distinguished Senator will read the entire bill, Mr. President, he will find out that we are trying to institutionalize the country-team approach of which the Department of Foreign Affairs is supposed to be the lead agency and the Ambassador is the head of the country team in a particular country. Consistent with that, we thought that legal services referring to this particular section, should be attached to the Department of Foreign Affairs instead of putting this under the Office of the President.

I can see the point of the good Senator. I would like to confirm that the original provision in the bill of the Senate is really to attach this to the Office of the President, on the belief that with the clout of the Office of the President, the function of this particular office becomes more effective. But then, Mr. President, we have also to consider that we are trying to institutionalize the country-team approach. At the same time, since the Department of Foreign Affairs, with the Department of Labor, is the front government institution servicing or giving protection to migrant workers, it is only logical that we should attach this to the Department of Foreign Affairs.

Senator Maceda: Mr. President, the last point is: is it clear from the final provisions adopted by the Conference Committee Report that Congress has a clear intention of reducing the powers, especially the quasi-judicial and the regulatory powers of the POEA?

Senator Herrera: In fact, Mr. President, based on what I called the Maceda amendment, there is now a phaseout within a period of five years of the POEA, consistent with the intention to deregulate the overseas employment program of the Government.

There is no doubt, Mr. President, as to the clear intention of Congress. Probably, depending also on the result of the phase-out, I am very confident that it will be good for the industry and for our workers; and Congress owes this to the distinguished Senator since this is his amendment.

Senator Maceda: Is it also clear now, Mr. President, that as far as the Executive Department is concerned, especially on the country-team approach of dealing with the concerns of our migrant workers abroad, the principal person responsible is the Secretary of Foreign Affairs and the principal department responsible is the Department of Foreign Affairs?

Senator Herrera: Mr. President, there is no doubt that that is the primary responsibility now of the Department of Foreign Affairs.

As we know, this is one of the hotly debated provisions of this bill. Even during the Bicameral Conference they were still lobbying to tone down the mandate of this particular provision, which is to give the highest priority in servicing the protection of Filipino citizens abroad.

Mr. President, if I may just put into the *Record*, let me quote the last lines of this particular provision: "The protection of the Filipino migrant workers and the promotion of their welfare in particular, and the protection of the dignity and fundamental rights and freedoms of the Filipino citizens abroad, in general, shall be the highest priority concerns of the Secretary of Foreign Affairs and the Philippine Foreign Service Post."

Senator Maceda: That is all that this Representation wants to clarify, Mr. President.

I wish to congratulate the distinguished Sponsor for this Conference Committee Report, although I have some reservations as to its total effectivity.

I would also like to put into the *Record* that I commend the distinguished Gentleman's flexibility in the sense that, as he said, after having been deadlocked for three times, he was flexible enough to listen to the entreaties of the Speaker of the House and the President of the Philippines for the sake of migrant workers.

Senator Herrera: Mr. President, while I was waiting for the change of heart of the House, there was no doubt in my mind that later they would be enlightened. True enough, in the last minute, they were enlightened and they agreed.

Senator Maceda: Thank you, Mr. President.

Senator Herrera: Mr. President, let me put into the *Record*

also that during the deliberations on this bill, we had been emphasizing that we do not want to provide extravagant expectation to the overseas Filipino workers. We would expect that in the course of time, there will be additional amendments to this bill. But I think it is a good start that we have now what we call a "mother bill" for migrant workers.

Senator Rasul: Mr. President.

The President: Senator Rasul is recognized.

Senator Rasul: Mr. President, there is just one point I wish the distinguished Senator to clarify.

I noted that this bill does not have any penalty provisions. For example, in Section 16 which was mentioned earlier by Senator Maceda — the Mandatory Repatriation of Underaged Migrant Workers.

Mr. President, what happens to the people responsible for the deployment of the underage girls to work abroad as domestics?

Senator Herrera: Mr. President, under the title "Illegal Recruitments," the penalty is "maximum" and that is a life sentence. This was the amendment proposed by Senator Maceda. If a worker recruited is underage, that would fall under the category of illegal recruitment and the penalty should be maximum. That is under Section 6, "Illegal Recruitment."

Senator Rasul: Mr. President, I was just cursorily looking at the bill and I thought there should be emphasis placed on that sanction so that the mandate of the law will be known by the recruiters, as well as the officials of the Department of Foreign Affairs, who are responsible for the deployment of underage migrant workers. There could not be underaged workers if the passports are issued in accordance with facts and the documents presented to the Passport Division. If the penalty is so much for nongovernment employees, then the penalty should be even heavier for those who are in the Government.

Senator Herrera: Mr. President, the penalty under illegal recruitment also covers Government officials or employees who participate in the commission of the crime.

Just to put into the *Record*, on page 7 under the title "Penalties," let me read the provision: "That the maximum penalty shall be imposed if the person illegally recruited is less than 18 years of age or committed by a nonlicensee or nonholder of authority."

Thank you, Mr. President.

APPROVAL OF CONFERENCE COMMITTEE REPORT
ON S. NO 2077/H. NO. 14314

The President: Is the Body ready to vote? As many as are in favor, please say *Aye*. [*Some Senators: Aye*] Those who are against, please say *Nay*. [*Silence*]

The Conference Committee Report on Senate Bill No. 2077 is approved.

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

CONFERENCE COMMITTEE REPORT

The Conference Committee on the disagreeing provisions of House Bill No. 14314, entitled

AN ACT PROVIDING A MAGNA CARTA OF
OVERSEAS FILIPINOS

and Senate Bill No. 2077 entitled

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

having met on May 29-31, 1995 and on June 2, 1995, and after full and free conference, has come to an agreement, and the conferees do hereby recommend to their respective Houses that Senate Bill No. 2077 and House Bill No. 14314 be consolidated and approved in accordance with the attached bill as reconciled and approved by the conferees.

Approved,

CONFEREES ON THE PART OF
THE SENATE

(Sgd.) ERNESTO F. HERRERA

(Sgd.) BLAS F. OPLE

(Sgd.) LETICIA R. SHAHANI

(Sgd.) FREDDIE N. WEBB

(Sgd.) ALBERTO G. ROMULO

(Sgd.) ERNESTO M. MACEDA

CONFEREES ON THE PART
OF THE HOUSE OF REPRESENTATIVES

(Sgd.) JAIME C. LOPEZ

(Sgd.) EMIGDIO A. BONDOC

(Sgd.) ANDREA D. DOMINGO

(Sgd.) BONIFACIO H. GILLEGO

ROMEO D. CANDAZO

ROQUE R. ABLAN, JR.

(Sgd.) ALBERTO S. VELOSO

DANTE V. LIBAN

TOMAS F. CONCEPCION

(Sgd.) EMIGDIO S. TANJUATCO, JR.

LEONOR INES LUCIANO

(Sgd.) EDCEL C. LAGMAN

(Sgd.) MANUEL A. ROXAS

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

SECTION 1. *Short Title.* - This Act shall be known and cited as the "Migrant Workers and Overseas Filipinos Act of 1995."

SEC. 2. *Declaration of Policies.* -

- (a) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at all times, uphold the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular.
- (b) The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment

opportunities for all. Towards this end, the State shall provide adequate and timely social, economic and legal services to Filipino migrant workers.

- (c) While recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, the State does not promote overseas employment as a means to sustain economic growth and achieve national development. The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizen shall not, at any time, be compromised or violated. The State, therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development.
- (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.
- (e) Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty. In this regard, it is imperative that an effective mechanism be instituted to ensure that the rights and interests of distressed overseas Filipinos, in general, and Filipino migrant workers, in particular, documented or undocumented, are adequately protected and safeguarded.
- (f) The right of Filipino migrant workers and all overseas Filipinos to participate in the democratic decision-making processes of the State and to be represented in institutions relevant to overseas employment is recognized and guaranteed.
- (g) The State recognizes that the ultimate protection to all migrant workers is the possession of skills. Pursuant to this and as soon as practicable, the government shall deploy and/or allow the deployment only of skilled Filipino workers.
- (h) Non-governmental organizations, duly recognized as legitimate, are partners of the State in the

protection of Filipino migrant workers and in the promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect.

- (i) Government fees and other administrative costs of recruitment, introduction, placement and assistance to migrant workers shall be rendered free without prejudice to the provision of Section 38 hereof.

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.

SEC. 3. *Definitions.* - For purposes of this Act:

- (1) Migrant worker - refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a legal resident; to be used interchangeably with Overseas Filipino Worker.
- (2) Gender-sensitivity - shall mean cognizance of the inequalities and inequities prevalent in society between women and men and a commitment to address issues with concern for the respective interests of the sexes.
- (3) Overseas Filipino - refers to dependents of migrant workers and other Filipino nationals abroad who are in distress as mentioned in Sections 24 and 26 of this Act.

I

DEPLOYMENT

SEC. 4. *Deployment of Migrant Workers.* - The State shall deploy overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected. The government recognizes any of the following as a guarantee on the part of the receiving country for the protection and the rights of overseas Filipino workers:

- i) It has existing labor and social laws protecting the rights of migrant workers;
- ii) It is a signatory to multilateral conventions,

- declarations or resolutions relating to the protection of migrant workers;
- iii) It has concluded a bilateral agreement or arrangement with the Government protecting the rights of overseas Filipino workers; and
- iv) It is taking positive, concrete measures to protect the rights of migrant workers.

SEC. 5. *Termination or Ban on Development.* - Notwithstanding the provisions of Section 4 hereof, the government, in pursuit of the national interest or when public welfare so requires, may, at any time, terminate or impose a ban on the deployment of migrant workers.

II

ILLEGAL RECRUITMENT

SEC. 6. *Definition.* - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13 (f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: *Provided,* That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

- a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay any amount greater than that actually received by him as a loan or advance;
- b) To furnish or publish any false notice or information or document in relation to recruitment or employment;
- c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;
- d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;
- e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;
- f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;
- g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative;
- h) To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;
- i) To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;
- j) For an officer or agent of a recruitment or placement agency to become officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;
- k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under the Labor Code and its implementing rules and regulations;
- l) Failure to actually deploy without valid reason as determined by the Department of Labor and Employment;
- m) Failure to reimburse expenses incurred by the worker in connection with his documentation and

processing for purposes of deployment, in cases where deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officers having control, management or direction of their business shall be liable.

SEC. 7. Penalties. -

- (a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand Pesos (P500,000.00).
- (b) The penalty of life imprisonment and a fine of not less than Five Hundred Thousand Pesos (P500,000.00) nor more than One Million Pesos (P1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority.

SEC. 8. Prohibition on Officials and Employees.

- It shall be unlawful for any official or employee of the Department of Labor and Employment, the POEA or the OWWA, or the Department of Foreign Affairs, or other government agencies involved in the implementation of this Act, or their relatives within the fourth civil degree of consanguinity or affinity, to engage, directly or indirectly, in the business of recruiting migrant workers as defined in this Act. The

penalties provided in the immediate preceding paragraph shall be imposed upon them.

SEC. 9. Venue. - A criminal action arising from illegal recruitment as defined herein shall be filed with the Regional Trial Court of the province or city where the offense was committed or where the offended party actually resides at the time of the commission of the offense: *Provided,* That the Court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts: *Provided, however,* That the aforesaid provisions shall also apply to those criminal actions that have already been filed in court at the time of the effectivity of this Act.

SEC. 10. Money Claims. - Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.

The liability of the principal/employer and the recruitment/placement agency for any and all claims under this Section shall be joint and several. This provision shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval. The performance bond to be filed by the recruitment/placement agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the workers. If the recruitment/place-ment agency is a juridical being, the corporate officers and directors and partners as the case maybe, shall them-selves be jointly and solidarily liable with the corporation or partnership for the aforesaid claims and damages.

Such liabilities shall continue during the entire period or duration of the employment contract and shall not be affected by any substitution, amendment or modification made locally or in a foreign country of the said contract.

Any compromise/amicable settlement or voluntary agreement on money claims inclusive of damages under this Section shall be paid within four (4) months from the approval of the settlement by the appropriate authority.

In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the worker shall be entitled to the full reimbursement of his placement fee with interest at twelve percent (12%) per annum, plus his salaries for the unexpired portion of his employment contract or for three (3) months for every year of the unexpired term, whichever is less.

Non-compliance with the mandatory periods for resolutions of cases provided under this Section shall subject the responsible officials to any or all of the following penalties:

- (1) The salary of any such official who fails to render his decision or resolution within the prescribed period shall be, or caused to be, withheld until the said official complies therewith;
- (2) Suspension for not more than ninety (90) days; or
- (3) Dismissal from the service with disqualification to hold any appointive public office for five (5) years.

Provided, however, That the penalties herein provided shall be without prejudice to any liability which any such officials may have incurred under other existing laws or rules and regulations as a consequence of violating the provisions of this paragraph.

SEC. 11. Mandatory Periods for Resolution of Illegal Recruitment Cases. - The preliminary investigations of cases under this Act shall be terminated within a period of thirty (30) calendar days from the date of their filing. Where the preliminary investigation is conducted by a prosecution officer and a *prima facie* case is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. If the preliminary investigation is conducted by a judge and a *prima facie* case is found to exist, the corresponding information shall be filed by the proper prosecution officer within forty-eight (48) hours from the date of receipt of the records of the case.

SEC. 12. Prescriptive Periods. - Illegal recruitment cases under this Act shall prescribe in five (5) years: *Provided, however,* That illegal recruitment cases involving economic sabotage as defined herein shall prescribe in twenty (20) years.

SEC. 13. Free Legal Assistance; Preferential Entitlement Under the Witness Protection Program. -

A mechanism for free legal assistance for victims of illegal recruitment shall be established within the Department of Labor and Employment including its regional offices. Such mechanism must include coordination and cooperation with the Department of Justice, the Integrated Bar of the Philippines, and other non-governmental organizations and volunteer groups.

The provisions of Republic Act 6981 to the contrary notwithstanding, any person who is a victim of illegal recruitment shall be entitled to the Witness Protection Program provided thereunder.

III

SERVICES

SEC. 14. Travel Advisory/Information Dissemination. - To give utmost priority to the establishment of programs and services to prevent illegal recruitment, fraud and exploitation or abuse of Filipino migrant workers, all embassies and consular offices, through the Philippine Overseas Employment Administration (POEA), shall issue travel advisories or disseminate information on labor and employment conditions, migration realities and other facts; and adherence of particular countries to international standards on human and workers rights which will adequately prepare individuals into making informed and intelligent decisions about overseas employment. Such advisory or information shall be published in a newspaper of general circulation at least three (3) times in every quarter.

SEC. 15. Repatriation of Workers; Emergency Repatriation Fund. - The repatriation of the worker and the transport of his personal belongings shall be the primary responsibility of the agency which recruited or deployed the worker overseas. All costs attendant to repatriation shall be borne by or charged to by the agency concerned and/or its principal. Likewise, the repatriation of remains and transport of the personal belongings of a deceased worker and all costs attendant thereto shall be borne by the principal and/or the local agency. However, in cases where the termination of employment is due solely to the fault of the worker, the principal/employer or agency shall not in any manner be responsible for the repatriation of the former and/or his belongings.

The Overseas Workers Welfare Administration (OWWA), in coordination with appropriate international agencies, 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 by the responsible principal or agency. However in case where the principal or recruitment agency cannot be identified, all costs attendant to repatriation shall be borne by the OWWA.

For this purpose, there is hereby created and established an emergency repatriation fund under the administration, control and supervision of the OWWA, initially to consist of One hundred million pesos (P100,000,000.00), which shall be taken from the existing fund controlled and administered by OWWA. Thereafter, such fund shall be provided for in the General Appropriations Act from year to year: *Provided*, That the amount appropriated shall in no case be less than One hundred million pesos (P100,000,000.00), inclusive of outstanding balances.

SEC. 16. *Mandatory Repatriation of Underage Migrant Workers* - Upon discovery or being informed of the presence of migrant workers whose actual ages fall below the minimum age requirement for overseas deployment, the responsible officers in the foreign service shall without delay repatriate said workers and advise the Department of Foreign Affairs through the fastest means of communication available of such discovery and other relevant information.

SEC. 17. *Establishment of Re-placement and Monitoring Center* - A Re-placement and Monitoring Center is hereby created in the Department of Labor and Employment for returning Filipino migrant workers which shall provide a mechanism for their reintegration into the Philippine society, serve as a promotion house for their local employment, and tap their skills and potentials for national development.

The DOLE, OWWA and POEA shall, within ninety (90) days from the effectivity of this Act, formulate a program that would motivate migrant workers to plan for productive options such as entry into highly technical jobs or undertakings, livelihood and entrepreneurial development, better wage employment, and investment of savings.

For this purpose, the Technical Education and Skills Development Authority (TESDA), the Technology Livelihood Resource Center (TLRC) and other government agencies involved in training and livelihood development shall give priority to returnees who had been employed as domestic helpers and entertainers.

SEC. 18. *Functions of the Re-placement and Monitoring Center* - The Center shall provide the following services:

- (a) Develop livelihood programs and projects for returning Filipino migrant workers in coordination with the private sector;
- (b) Coordinate with appropriate private and government agencies in the promotion, development, re-placement and the full utilization of their potentials;
- (c) Institute, in cooperation with other government agencies concerned, a computer-based information system on skilled Filipino migrant workers which shall be accessible to all local recruitment agencies and employers, both public and private;
- (d) Provide a periodic study and assessment of job opportunities for returning Filipino migrant workers; and
- (e) Develop and implement other appropriate programs to promote the welfare of returning Filipino migrant workers.

SEC. 19. *Establishment of a Migrant Workers and Other Overseas Filipinos Resource Center* - Within the premises and under the administrative jurisdiction of the Philippine Embassy in countries where there are large concentrations of Filipino migrant workers, there shall be established a Migrant Workers and Other Overseas Filipinos Resource Center with the following services:

- (a) Counselling and legal services;
- (b) Welfare assistance including the procurement of medical and hospitalization services;
- (c) Information, advisory and programs to promote social integration such as post-arrival orientation, settlement and community networking services and activities for social interaction;
- (d) Institute a scheme of registration of undocumented workers to bring them within the purview of this Act. For this purpose, the Center is enjoined to compel existing undocumented workers to register with it within six (6) months from the effectivity of this Act, under pain of having his/her passport cancelled;

- (e) Human resource development, such as training and skills upgrading;
- (f) Gender sensitive programs and activities to assist particular needs of women migrant workers;
- (g) Orientation program for returning workers and other migrants;
- (h) Monitoring of daily situations, circumstances and activities affecting migrant workers and other overseas Filipinos.

The establishment and operations of the Center shall be a joint undertaking of the various government agencies. The Center shall be open for (24) twenty-four hours daily including Saturdays, Sundays and holidays, and shall be staffed by Foreign Service personnel, service attaches or officers who represent other Philippine government agencies abroad and, if available, individual volunteers and bona fide non-government organizations from the host countries. In countries categorized as highly problematic by the Department of Foreign Affairs and the Department of Labor and Employment and where there is a concentration of Filipino migrant workers, the government must provide a lawyer and a social worker for the Center. The Labor Attache shall coordinate the operation of the Center and shall keep the Chief of Mission informed and updated on all matters affecting it.

The Center shall have a counterpart 24-hour information and assistance center at the Department of Foreign Affairs to ensure a continuous network and coordinative mechanism at the home office.

SEC. 20. Establishment of a Shared Government Information System for Migration. - An inter-agency committee composed of the Department of Foreign Affairs and its attached agency, the Commission on Filipinos Overseas, the Department of Labor and Employment, the Philippine Overseas Employment Administration, the Overseas Workers Welfare Administration, the Department of Tourism, the Department of Justice, the Bureau of Immigration, the National Bureau of Investigation and the National Statistics Office shall be established to implement a shared government information system for migration. The inter-agency committee shall initially make available to itself the information contained in existing data bases/files. The second phase shall involve linking of computer facilities in order to allow free-flow data exchanges and sharing among concerned agencies.

The inter-agency committee shall convene to identify existing data bases which shall be declassified and shared among member agencies. These shared databases shall initially include, but not be limited to the following information:

- (a) Masterlists of Filipino migrant workers/overseas Filipinos classified according to occupation/job category, civil status by country/state of destination including visa classification;
- (b) Inventory of pending legal cases involving Filipino migrant workers and other Filipino nationals, including those serving prison terms;
- (c) Masterlists of departing/arriving Filipinos;
- (d) Statistical profile on Filipino migrant workers/overseas Filipinos/tourists;
- (e) Blacklisted foreigners/undesirable aliens;
- (f) Basic data on legal systems, immigration policies, marriage laws and civil and criminal codes in receiving countries particularly those with large numbers of Filipinos;
- (g) List of labor and other human rights instruments where receiving countries are signatories;
- (h) A tracking system of past and present gender disaggregated cases involving male and female migrant workers; and
- (i) Listing of overseas posts which may render assistance to overseas Filipinos, in general, and migrant workers, in particular.

SEC. 21. Migrant Workers Loan Guarantee Fund. - In order to further prevent unscrupulous illegal recruiters from taking advantage of workers seeking employment abroad, the OWWA, in coordination with government financial institutions shall institute financing schemes that will expand the grant of pre-departure loan and family assistance loan. For this purpose, a Migrant Workers Loan Guarantee Fund is hereby created and the revolving amount of One hundred million pesos (P100,000,000.00) from the OWWA is set aside as a guarantee fund in favor of participating government financial institutions.

SEC. 22. Rights and Enforcement Mechanism Under

International and Regional Human Rights Systems. - The Department of Foreign Affairs is mandated to undertake the necessary initiative such as promotions, acceptance or adherence of countries receiving Filipino workers to multilateral convention, declaration or resolutions pertaining to the protection of migrant workers' rights. The Department of Foreign Affairs is also mandated to make an assessment of rights and avenues of redress under international and regional human rights systems that are available to Filipino migrant workers who are victims of abuse and violation and, as far as practicable and through the Legal Assistant for Migrant Workers Affairs created under this Act, pursue the same on behalf of the victim if it is legally impossible to file individual complaints. If a complaints machinery is available under international or regional systems, the Department of Foreign Affairs shall fully apprise the Filipino migrant workers of the existence and effectiveness of such legal options.

IV

GOVERNMENT AGENCIES

SEC. 23. *Role of Government Agencies.* - The following government agencies shall perform the following to promote the welfare and protect the rights of migrant workers and, as far as applicable, all overseas Filipinos:

- (a) Department of Foreign Affairs - The Department, through its home office or foreign posts, shall take priority action or make representation with the foreign authority concerned to protect the rights of migrant workers and other overseas Filipinos and extend immediate assistance including repatriation of distressed or beleaguered migrant workers and other overseas Filipinos;
- (b) Department of Labor and Employment - The Department of Labor and Employment shall see to it that labor and social welfare laws in the foreign countries are fairly applied to migrant workers and whenever applicable, to other overseas Filipinos including the grant of legal assistance and the referral to proper medical centers or hospitals:

(b.1) Philippine Overseas Employment Administration - Subject to deregulation and phase-out as provided under Sections 29 and 30 herein, the Administration shall regulate private sector participation in the recruitment and overseas

placement of workers by setting up a licensing and registration system. It shall also formulate and implement in coordination with appropriate entities concerned, when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements.

(b.2) Overseas Workers Welfare Administration - The Welfare Officer or in his absence, the Coordinating Officer shall provide the Filipino migrant worker and his family all the assistance they may need in the enforcement of contractual obligations by agencies or entities and/or by their principals. In the performance of this function, he shall make representation and may call on the agencies or entities concerned to conferences or conciliation meetings for the purpose of settling the complaints or problems brought to his attention.

V

THE LEGAL ASSISTANT FOR
MIGRANT WORKERS AFFAIRS

SEC. 24. *Legal Assistant for Migrant Workers Affairs.* - There is hereby created the position of "Legal Assistant for Migrant Workers Affairs" under the Department of Foreign Affairs who shall be primarily responsible for the provision and overall coordination of all legal assistance services to be provided to Filipino migrant workers as well as overseas Filipinos in distress. He shall have the rank, salary and privileges equal to that of an Undersecretary of said Department.

The said Legal Assistant for Migrant Workers Affairs, 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 to an elective office in the last local or national elections.

Among the functions and responsibilities of the aforesaid Legal Assistant are:

- a) To issue the guidelines, procedures and criteria for the provision of legal assistance services to Filipino migrant workers;
- b) To establish close linkages with the Department of Labor and Employment, the POEA, the OWWA and other government agencies concerned, as well

as with non-governmental organizations assisting migrant workers, to ensure effective coordination and cooperation in the provision of legal assistance to migrant workers;

- c) To tap the assistance of reputable law firms and the Integrated Bar of the Philippines and other bar associations to complement the government's efforts to provide legal assistance to our migrant workers;
- d) To administer the Legal Assistance Fund for migrant workers established under Section 25 hereof and to authorize disbursements therefrom in accordance with the purposes for which the fund was set up; and
- e) To keep and maintain the information system as provided in Section 20.

The Legal Assistant for Migrant Workers Affairs shall have authority to hire private lawyers, domestic or foreign, in order to assist him in the effective discharge of the above functions.

SEC. 25. Legal Assistance Fund. - There is hereby established a legal assistance fund for migrant workers, hereinafter referred to as the "Legal Assistance Fund," in the amount of One hundred million pesos (P100,000,000.00) to be constituted from the following sources:

Fifty million pesos (P50,000,000.00) from the Contingency Fund of the President;

Thirty million pesos (P30,000,000.00) from the Presidential Social Fund; and

Twenty million pesos (P20,000,000.00) from the Welfare Fund for Overseas Workers established under Letter of Instruction No. 537, as amended by Presidential Decree Nos. 1694 and 1809.

Any balances of existing funds which have been set aside by the government specifically as legal assistance or defense fund to help migrant workers shall, upon effectivity of this Act, be turned over to, and form part of, the Fund created under this Act.

SEC. 26. Uses of the Legal Assistance Fund. - The Legal Assistance Fund created under the preceding section shall be used exclusively to provide legal

services to migrant workers and overseas Filipinos in distress in accordance with the guidelines, criteria and procedures promulgated in accordance with Section 24 (a) hereof. The expenditures to be charged against the Fund shall include the fees for the foreign lawyers to be hired by the Legal Assistant for Migrant Workers Affairs to represent migrant workers facing charges abroad, bail bonds to secure the temporary release of workers under detention, court fees and charges and other litigation expenses.

VI

COUNTRY-TEAM APPROACH

SEC. 27. Priority Concerns of Philippine Foreign Service Posts. - The country-team approach, as enunciated under Executive Order No. 74, series of 1993 shall be the mode under which Philippine Embassies or their personnel will operate in the protection of the Filipino migrant workers as well as in the promotion of their welfare. The protection of the Filipino migrant workers and the promotion of their welfare, in particular, and the protection of the dignity and fundamental rights and freedoms of the Filipino citizen abroad, in general, shall be the highest priority concerns of the Secretary of Foreign Affairs and the Philippine Foreign Service Posts.

SEC. 28. Country-Team Approach. - Under the country-team approach, all officers, representatives and personnel of the Philippine government posted abroad regardless of their mother agencies shall, on a per country basis, act as one country-team with a mission under the leadership of the ambassador. In this regard, the ambassador may recommend to the Secretary of the Department of Foreign Affairs the recall of officers, representatives and personnel of the Philippine government posted abroad for acts inimical to the national interest such as, but not limited to, failure to provide the necessary services to protect the rights of overseas Filipinos.

Upon receipt of the recommendation of the ambassador, the Secretary of the Department of Foreign Affairs shall, in the case of officers, representatives and personnel of other departments, endorse such recommendation to the department secretary concerned for appropriate action. Pending investigation by an appropriate body in the Philippines, the person recommended for recall may be placed under preventive suspension by the ambassador.

In host countries where there are Philippine consulates, such consulates shall also constitute part of the country-team under the leadership of the ambassador.

In the implementation of the country-team approach, visiting Philippine delegations shall be provided full support and information.

VII

DEREGULATION AND PHASE-OUT

SEC. 29. Comprehensive Deregulation Plan on Recruitment Activities. - Pursuant to a progressive policy of deregulation whereby the migration of workers becomes strictly a matter between the worker and his foreign employer, the DOLE, within one (1) year from the effectivity of this Act, is hereby mandated to formulate a five (5) year comprehensive deregulation plan on recruitment activities taking into account labor market trends, economic conditions of the country and emerging circumstances which may affect the welfare of migrant workers.

SEC. 30. Gradual Phase-Out of Regulatory Functions. - 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.

VIII

PROFESSIONALS AND OTHER HIGHLY-SKILLED FILIPINOS ABROAD

SEC. 31. Incentives to Professionals and other Highly-Skilled Filipinos Abroad. - Pursuant to the objective of encouraging professionals and other highly skilled Filipinos abroad especially in the field of science and technology to participate in, and contribute to national development, the government shall provide proper and adequate incentives and programs so as to secure their services in priority development areas of the public and private sectors.

IX

MISCELLANEOUS PROVISIONS

SEC. 32. POEA and OWWA Boards; Additional Memberships. - Notwithstanding any provision of law

to the contrary, the respective Boards of the POEA and OWWA shall, in addition to their present composition, have three (3) members each who shall come from the women, sea-based and land-based sectors respectively, to be appointed by the President in the same manner as the other members.

SEC. 33. Report to Congress. - In order to inform the Philippine Congress on the implementation of the policy enunciated in Section 4 hereof, the Department of Foreign Affairs and the Department of Labor and Employment shall submit to the said body a semi-annual report of Philippine foreign posts located in countries hosting Filipino migrant workers. The report shall include, but shall not be limited, to the following information:

- (a) Masterlist of Filipino migrant workers, and inventory of pending legal cases involving them and other Filipino nationals including those serving prison terms;
- (b) Working conditions of Filipino migrant workers;
- (c) Problems encountered by the migrant workers, specifically violations of their rights;
- (d) Initiatives/actions taken by the Philippine foreign posts to address the problems of Filipino migrant workers;
- (e) Changes in the laws and policies of host countries; and
- (f) Status of negotiations on bilateral labor agreements between the Philippines and the host country.

Any officer of the government who fails to report as stated in the preceding section shall be subject to administrative penalty.

SEC. 34. Representation in Congress. - Pursuant to Section 5(2), Article VI of the Constitution and in line with the objective of empowering overseas Filipinos to participate in the policy-making process to address Filipino migrant concerns, two (2) sectoral representatives for migrant workers in the House of Representatives shall be appointed by the President from the ranks of migrant workers: *Provided*, That at least one (1) of the two (2) sectoral representatives shall come from the women migrant workers sector: *Provided*,

further, That all nominees must have at least two (2) years experience as a migrant worker.

SEC. 35. Exemption from Travel Tax and Airport Fee. - All laws to the contrary notwithstanding, the migrant worker shall be exempt from the payment of travel tax and airport fee upon proper showing of proof of entitlement by the POEA.

SEC. 36. Non-Increase of Fees; Abolition of Repatriation Bond. - Upon approval of this Act, all fees being charged by any government office on migrant workers shall remain at their present levels and the repatriation bond shall be abolished.

SEC. 37. The Congressional Migrant Workers Scholarship Fund. - There is hereby created a Congressional Migrant Workers Scholarship Fund which shall benefit deserving migrant workers and/or their immediate descendants below twenty-one (21) years of age who intend to pursue courses or training primarily in the field of science and technology. The initial seed fund of Two hundred million pesos (P200,000,000.00) shall be constituted from the following sources:

- 1) Fifty million pesos (P50,000,000.00) from the unexpended Countrywide Development Fund for 1995 in equal sharing by all Members of Congress;
- 2) The remaining One hundred fifty million pesos (P150,000,000.00) shall be funded from the proceeds of Lotto draws.

The Congressional Migrant Workers Scholarship Fund as herein created shall be administered by the DOLE in coordination with the Department of Science and Technology (DOST). To carry out the objectives of this section, the DOLE and the DOST shall formulate the necessary rules and regulations.

SEC. 38. Appropriation and other Sources of Funding. - The amount necessary to carry out the provisions of this Act shall be in the General Appropriations Act of the year following its enactment into law and thereafter.

SEC. 39. Migrant Workers Day. - The day of signing by the President of this Act shall be designated as the "Migrant Workers Day" and shall henceforth be commemorated as such annually.

SEC. 40. 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.

SEC. 41. Repealing Clause. - All laws, decrees, executive orders, rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 42. Separability Clause. - If, for any reason, any section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby.

SEC. 43. Effectivity. - This Act shall take effect after fifteen (15) days from its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation, whichever comes earlier.

Approved,

Senator Romulo: Mr. President.

The President: The Majority Leader is recognized.

Senator Romulo: With the approval of the Bicameral Conference Committee Report on the Migrant Workers Act, we have completed the task that we have set ourselves to accomplish in the special session and in this regular session before we close.

In consultation and in agreement with the House therefore, Mr. President, since we have concluded the task on hand, may I ask the consent of this Chamber that we amend our Legislative Calendar so that we will conclude our session on June 5.

MOTION OF SENATOR ROMULO (Amendment of Legislative Calendar)

So, I move that our sessions would be from May 29, 1995 to June 5, 1995 and, therefore, the adjournment will commence on June 6, 1995 until July 23.

I so move, Mr. President.

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