



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 59
Monday, February 7, 2011

FIFTEENTH CONGRESS
FIRST REGULAR SESSION

SESSION NO. 59
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CALL TO ORDER

At 3:31 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

PRAYER

Sen. Vicente C. Sotto III led the prayer, to wit:

Oh Great Architect of the universe,
As we begin our session today,
 bless us, O Lord,
With Your enlightenment,
 so we can also enlighten others;
With Your understanding,
 so we can also understand others;
With Your compassion,
 so we can be compassionate to others;
With Your humility,
 so we can be humble to others.

Free our hearts from hatred that we
 may be able to forgive and forget;
Free our minds from worries that we
 may have self-confidence;
Free our souls from doubts that we
 may have faith;
Free our spirits from greed that we
 may have contentment.

Guide us, O Lord,
 as we perform our tasks
Always mindful of our weaknesses
 and flaws.

But never forgetting that You are
 the source of all our sustenance
 and strength.
Thank You, Lord.

Amen.

NATIONAL ANTHEM

The Ramon Magsaysay High School Chorale led the singing of the national anthem and thereafter rendered the song, entitled *Isang Dugo, Isang Lahi, Isang Musika*.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Atty. Emma Lirio-Reyes, called the roll, to which the following senators responded:

Arroyo, J. P.	Lapid, M. L. M.
Cayetano, A. P. C. S.	Legarda, L.
Defensor Santiago, M.	Osmeña III, S. R.
Drilon, F. M.	Pangilinan, F. N.
Ejercito Estrada, J.	Recto, R. G.
Enrile, J. P.	Revilla Jr., R. B.
Escudero, F. J. G.	Sotto III, V. C.
Guingona III, T. L.	Trillanes IV, A. F.
Honasan, G. B.	Zubiri, J. M. F.

With 18 senators present, the Chair declared the presence of a quorum.

Senator Villar arrived after the roll call.

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Senators Angara and Cayetano (P) were on official mission.

Senator Marcos was on sick leave.

Senator Lacson was absent.

APPROVAL OF THE JOURNAL

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 58 (February 2, 2011) and considered it approved.

At this juncture, Senate President Enrile relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Letter from the Secretary General of the House of Representatives, informing the Senate that on 31 January 2011, the House of Representatives passed the following House bills in which it requested the concurrence of the Senate:

House Bill No. 1460, entitled

AN ACT TO INCLUDE ETHNIC ORIGIN IN NATIONAL SURVEYS, CENSUSES AND OTHER DATA-GATHERING METHODS CONDUCTED BY THE NATIONAL STATISTICS OFFICE (NSO)

To the Committees on Health and Demography; Cultural Communities; and Finance

House Bill No. 3860, entitled

AN ACT PROVIDING FOR THE REAPPORTIONMENT OF THE LONE LEGISLATIVE DISTRICT OF THE PROVINCE OF AKLAN

To the Committees on Local Government;

and Constitutional Amendments, Revision of Codes and Laws

House Bill No. 3861, entitled

AN ACT PROVIDING FOR THE DEVELOPMENT OF ENTREPRENEURSHIP SKILLS AMONG GOVERNMENT EMPLOYEES FOR AN INNOVATION-INSPIRED CORPS OF CIVIL SERVANTS AND A PRODUCTIVE POST-SERVICE CITIZENRY

To the Committee on Civil Service and Government

and House Bill No. 3877, entitled

AN ACT DECLARING EVERY 27TH DAY OF NOVEMBER AS "ARAW NG PAGBASA," A REGULAR WORKING HOLIDAY

To the Committee on Education, Arts and Culture

BILLS ON FIRST READING

Senate Bill No. 2672, entitled

AN ACT AMENDING THE NATIONAL INTERNAL REVENUE CODE OF 1997 AS AMENDED

Introduced by Senator Zubiri

To the Committees on Ways and Means; and Energy

Senate Bill No. 2673, entitled

AN ACT INSTITUTING A NATIONAL LAND USE POLICY, PROVIDING THE IMPLEMENTING MECHANISMS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Zubiri

To the Committees on Environment and Natural Resources; Urban Planning, Housing and Resettlement; and Finance

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Senate Bill No. 2674, entitled

AN ACT AUTHORIZING THE COMMISSION ON HIGHER EDUCATION TO ESTABLISH A PROGRAM TO AWARD GRANTS TO INSTITUTIONS OF HIGHER EDUCATION FOR THE ESTABLISHMENT OR EXPANSION OF CYBERSECURITY PROFESSIONAL DEVELOPMENT PROGRAMS

Introduced by Senator Defensor Santiago

To the Committees on Education, Arts and Culture; Science and Technology; and Finance

Senate Bill No. 2675, entitled

AN ACT REQUIRING PET FOOD MANUFACTURERS TO LABEL THEIR PRODUCTS PROPERLY, AND PROVIDING FOR THE LIABILITY OF MANUFACTURERS, PRODUCERS, IMPORTERS, TRADESMEN, AND RETAILERS FOR DAMAGES TO CONSUMERS CAUSED BY THEIR DEFECTIVE PRODUCTS

Introduced by Senator Defensor Santiago

To the Committee on Trade and Commerce

RESOLUTIONS

Proposed Senate Resolution No. 363, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE PROPER MONITORING IN THE DISBURSEMENT OF THE EMERGENCY REPATRIATION FUND UNDER THE SUPERVISION OF THE OVERSEAS WORKERS WELFARE ADMINISTRATION (OWWA) TO ENSURE PROMPT RESPONSE TO THE NEEDS OF THE OVERSEAS FILIPINO WORKERS

Introduced by Senator Defensor Santiago

To the Committee on Labor, Employment and Human Resources Development

Proposed Senate Resolution No. 364, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED NEED TO END CONTRACTUALIZATION, ESPECIALLY IN THE CONSTRUCTION INDUSTRY, AND INCREASE THE BENEFITS OF WORKERS EMPLOYED IN HAZARDOUS INDUSTRIES

Introduced by Senator Defensor Santiago

To the Committee on Labor, Employment and Human Resources Development

Proposed Senate Resolution No. 365, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON TRADE AND COMMERCE AND OTHER APPROPRIATE COMMITTEE/S TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPLEMENTATION OF THE INTELLECTUAL PROPERTY RIGHTS CODE VIS-À-VIS THE ALLEGED HELPLESSNESS OF CONCERNED GOVERNMENT AGENCIES TO CURB SOFTWARE PIRACY

Introduced by Senator Villar

To the Committees on Trade and Commerce; and Constitutional Amendments, Revision of Codes and Laws

Proposed Senate Resolution No. 366, entitled

RESOLUTION URGING THE SENATE COMMITTEES ON SCIENCE AND TECHNOLOGY; AGRICULTURE AND FOOD AND OTHER APPROPRIATE COMMITTEES TO CONDUCT A STUDY ON THE ADOPTION OF NEW TECHNOLOGIES AND RESEARCH OF FILIPINO INVENTORS, WITH THE END IN VIEW OF

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PROMOTING, PROTECTING AND
SUPPORTING THE GENERAL WEL-
FARE OF OUR LOCAL SCIENTISTS

Introduced by Senator Villar

**To the Committees on Science and Tech-
nology; and Trade and Commerce**

Proposed Senate Resolution No. 367, entitled

RESOLUTION URGING THE APPRO-
PRIATE SENATE COMMITTEE/S TO
CONDUCT AN INQUIRY, IN AID
OF LEGISLATION, ON THE STATUS
OF THE ABACA INDUSTRY WITH
THE END IN VIEW OF IMPROVING
FARMERS' PRODUCTIVITY AND
UPLIFTING THE NATURAL FIBER
BUSINESS AS A WHOLE

Introduced by Senator Villar

**To the Committees on Agriculture and
Food; and Trade and Commerce**

Proposed Senate Resolution No. 368, entitled

RESOLUTION DIRECTING THE SENATE
COMMITTEES ON TRADE AND
COMMERCE; AND AGRICULTURE
AND FOOD TO CONDUCT AN
INQUIRY, IN AID OF LEGISLATION,
ON THE PREPAREDNESS OF THE
DEPARTMENT OF AGRICULTURE
AND OTHER GOVERNMENT AGEN-
CIES IN CHARGE OF LIVESTOCK
AND MEAT REGULATION IN
PROTECTING THE LIVESTOCK
INDUSTRY AND ULTIMATELY THE
FILIPINO CONSUMERS IN LIGHT
OF THE FOOT-AND-MOUTH
DISEASE OUTBREAK IN ASIA

Introduced by Senator Villar

**To the Committees on Agriculture and
Food; and Trade and Commerce**

Proposed Senate Resolution No. 369, entitled

RESOLUTION DIRECTING THE SENATE
COMMITTEE ON ACCOUNT-
ABILITY OF PUBLIC OFFICERS

AND INVESTIGATIONS (BLUE
RIBBON) TO CONDUCT AN INVEST-
IGATION, IN AID OF LEGIS-LATION,
INTO THE ALLEGED OMISSION OR
INACTION (*NON-FEASANCE*) BY
THE BUREAU OF CUSTOMS (BOC)
INTO THE REPORTED RAMPANT
SMUGGLING IN THE PORT OF
DAVAO CITY, ITS ABUSE OF
AUTHORITY IN THE RESCISSION
OF THE MEMORANDUM OF AGREE-
MENT RESULTING IN INJURY TO
A PRIVATE ENTITY AND OTHER
REPORTS OF *MALFEASANCE* AND
MISFEASANCE DETRIMENTAL TO
PUBLIC INTEREST

Introduced by Senator Guingona III

**To the Committee on Accountability of
Public Officers and Investigations**

**ACKNOWLEDGMENT
OF THE PRESENCE OF GUESTS**

At this juncture, Senator Sotto acknowledged the presence in the gallery of students from the Core Gateway College of San Jose, Nueva Ecija; University of Perpetual Help System, Biñan, Laguna; and Palawan State University.

The Senate President Pro Tempore welcomed the guests to the Senate.

COMMITTEE MEMBERSHIP

With the consent of Senator Guingona, nominated by Senator Sotto, there being no objection, the Body elected Senator Zubiri as member of the Committee on Accountability of Public Officers and Investigations in lieu of Senator Lapid.

Senator Soto stated that Senator Lapid gave his consent to the replacement.

**COMMITTEE REPORT NO. 5
ON SENATE BILL NO. 1052**

(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1052 (Committee Report No. 5), entitled

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AN ACT AMENDING ARTICLE 26 OF EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE FAMILY CODE OF THE PHILIPPINES, AS AMENDED.

Senator Sotto stated that the parliamentary status was the period of interpellations.

MANIFESTATION OF SENATOR DEFENSOR SANTIAGO

Speaking in support of Senate Bill No. 1052, Senator Defensor Santiago agreed that the Family Code of the Philippines should be amended in light of the provision's purpose to prevent discrimination against Filipinos. She pointed out that Article 26(2) of the Family Code stemmed from a slew of cases allowing a Filipino to remarry after the foreign spouse obtains divorce. She cited the case of *Van Dorn vs. Romillo, Jr.*, which was decided even prior to the effectivity of the Family Code, to wit:

To maintain, as private respondent does, that, under our laws, petitioner has to be considered still married to private respondent and still be subject to a wife's obligations under Article 109, *et. seq.* of the Civil Code cannot be just. Petitioner should not be obliged to live together with, observe respect and fidelity, and render support to private respondent. The latter should not continue to be one of her heirs with possible rights to conjugal property. She should not be discriminated against in her own country if the ends of justice are to be served.

Senator Defensor Santiago stated that the same principle was applied in the case of *Pilapil vs. Ibay-Somerá* where the foreign spouse who had already obtained a decree of divorce in his country was not allowed to sue his Filipina wife for adultery based on acts purportedly committed during the subsistence of the marriage. She then quoted the Supreme Court ruling, to wit:

When said respondent initiated the divorce proceeding, he obviously knew that there would no longer be a family nor marriage vows to protect once a dissolution of the marriage is decreed. Neither would there be a danger of introducing spurious heirs into the family, which is said to be one of the reasons for the particular formulation of our law on adultery, since there would thenceforth be no spousal relationship to speak of. The severance of the marital bond had

the effect of dissociating the former spouses from each other, hence the actuations of one would not affect or cast obloquy on the other.

She noted that in both cases, there was no mention of a requirement for the foreign spouse to be capacitated to remarry in order for the Filipino spouse to be freed from the marital bond. She stated that the decisions were based on the demands of justice that if the foreign spouse is allowed by his national law to sever the marital bond, it is only fair for the Filipino spouse to be freed from the same marital bond.

Senator Defensor Santiago explained that there is need to amend the law because before, in cases of divorce between a foreign spouse and a Filipino national, the divorce was recognized only on the part of the foreigner but not on the part of the Filipino who remained married to the foreigner. She said that equality and justice dictate that a Filipino divorced from a foreign national be considered divorced and eligible to remarry.

She said that the enactment of the Family Code formalized the ruling of the *Van Dorn* case; *Republic vs. Orbecido III* traced the legislative intent of Article 26(2), while the case of *San Luis vs. San Luis* applied the provision in question, but also expressly applied the doctrine as formulated in *Van Dorn*.

Senator Defensor Santiago noted that in applying the *Van Dorn* doctrine, the Court made the following pronouncement but made no mention of a requirement for the foreign spouse to be recapacitated to remarry:

Interestingly, paragraph 2 of Article 26 traces its origin to the 1985 case of *Van Dorn*. The Court held therein that a divorce decree validly obtained by the alien spouse is valid in the Philippines, and consequently, the Filipino spouse is capacitated to remarry under Philippine law.

As such, the *Van Dorn* case is sufficient basis in resolving a situation where a divorce is validly obtained abroad by the alien spouse. With the enactment of the Family Code and paragraph 2 thereof, our lawmakers codified the law already established through judicial precedent.

She stated that as a former RTC Judge, she found it interesting that the Supreme Court in the *San Luis* case did not only apply Article 26(2)

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mechanically but also applied the principles of justice relied upon by *Van Dorn*, specifically by quoting lengthily from *Alonzo vs Intermediate Appellate Court*. She quoted in part the ruling, to wit:

But as has also been aptly observed, we test a law by its results; and likewise, we may add, by its purposes. It is a cardinal rule that, in seeking the meaning of the law, the first concern of the judge should be to discover in its provisions the intent of the lawmaker. Unquestionably, the law should never be interpreted in such a way as to cause injustice as this was never the legislative intent. An indispensable part of that intent, in fact, for we presume the good motives of the legislature, is to render justice.

Senator Defensor Santiago stated that the *Van Dorn* doctrine and the principles of justice do not require the foreign spouse to be capacitated to remarry before Article 26(2) operates. For indeed, she said, if there is no marital bond as to the foreign party by virtue of the divorce, it follows that there should also be no marital bond as to the Filipino spouse; if there is no marital bond, then there are no marital obligations and the Filipino spouse should definitely be able to remarry.

She reiterated that if the foreign spouse has been granted a divorce, the Filipino should also be considered divorced and free to remarry.

Furthermore, Senator Defensor Santiago stressed that the contested requirement in Article 26(2) of the Family Code unduly surrenders the status of a Filipino citizen to foreign law, when in Article 15 of the Civil Code, it is provided:

Laws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad.

She believed that Article 26(2) subverts this nationality principle by referring the status of a Filipino citizen to the national laws of the foreign spouse, because the Filipino spouse's ability to remarry becomes dependent on whether or not the national law of the foreign spouse allows the foreign spouse to remarry.

Senator Defensor Santiago described this referral of the status of a Filipino to foreign law as unsound. She pointed out that from a Conflict of Laws perspective, it cannot be presumed that there

is a significant relationship between the Filipino citizen and the foreign state that will justify the application of foreign law. The marital bond between the Filipino and the foreign country's national, she stressed, should not be deemed as a significant contract since at the time the legal issue is raised, this relationship is one from which the Filipino has already disengaged.

Senator Defensor Santiago stated that the same result is reached using the state interest analysis, another modern approach to the Choice of Law issue in conflict family law cases. The Philippines, she stressed, has a strong interest in applying its law that should be advantageous and beneficial to its own citizen, and she asserted that it will be an injustice to the divorced Filipino who has been legally, validly and totally freed from marital bonds with his/her former spouse to be prohibited from remarrying. She maintained that for as long as the decree obtained abroad is one of absolute divorce and not mere legal separation, the divorced person reclaims his legal capacity to marry, which is one of only two essential requisites of marriage, the other being consent freely given. Furthermore, she noted, Article 5 states that, "any male or female of the age eighteen or upwards not under any of the impediments mentioned in Article 37 and 38 may contract marriage." Given that a divorced person does not have any of the abovementioned impediments, he/she may then contract marriage, she argued.

Hence, she recommended that the phrase "capacitating him or her to remarry" be removed from Article 26(2) of the Family Code, so that once the foreign national is divorced from a Filipino national, the latter should be considered divorced as well and free to remarry. She added that in case the country of the foreign national declares the spouses divorced but are not free to remarry because of some disqualifications, under Philippine law, the Filipino spouse should be allowed to remarry.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

There being no further interpellation, upon motion of Senator Sotto, there being no objection, the Body closed the period of interpellations.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1052

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

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COMMITTEE REPORT NO. 6
SENATE BILL NO. 480
(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 480 (Committee Report No. 6), entitled

AN ACT AMENDING EXECUTIVE
ORDER NO. 209 ALSO KNOWN AS
THE FAMILY CODE OF THE
PHILIPPINES, ARTICLE III.

Senator Sotto stated that the parliamentary status was the period of interpellations.

Thereupon, the Chair recognized Senator Defensor Santiago for her manifestation.

**MANIFESTATION
OF SENATOR DEFENSOR SANTIAGO**

Initially, Senator Defensor Santiago commented that the proposed amendment to Article III of the Family Code was only a mere matter of grammar. She said that Article III of the Family Code is sought to be amended by replacing the term "spouse of age" with the more accurate term "either spouse" since a spouse must necessarily be of age.

She explained that the substitution of "either spouse" for "spouse of age" is in accord with present laws, citing Article 234 of the Family Code and Republic Act No. 6908 which provide that the age of emancipation is also the age of majority, which is 18 years.

She further adverted to Article 5 of the Family Code which states: "Any male or female of the age of eighteen years of upwards not under any of the impediments mentioned in Articles 37 and 38 may contract marriage," hence, a spouse is necessarily "of age." On the other hand, she said, Article 236 of the Family Code provides that "Emancipation for any cause shall terminate parental authority over the person and property of the child who shall then be qualified and responsible for all acts of civil life."

Senator Defensor Santiago also argued that the deletion of the phrase "without the consent of the other spouse and appear alone in court to litigate with regard to the same" is also consistent with present

laws. She quoted Article 110 (1) of the Family Code, to wit: "The spouses retain ownership, possession, administration and enjoyment of their exclusive properties." She noted that engaging in litigation over one's exclusive property is an act of administration already contained in Article 110(1).

Furthermore, she clarified that the acts of mortgaging, encumbering, alienating or otherwise disposing of one's exclusive properties are acts of ownership within the ambit of Article 110(1). She said that an owner does not need the consent of third parties in performing acts of ownership, pursuant to Article 428 of the Civil Code.

**TERMINATION OF THE PERIOD
OF INTERPELLATIONS**

There being no further interpellation, upon motion of Senator Sotto, there being no objection, the Body closed the period of interpellations.

**SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 480**

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:02 p.m.

RESUMPTION OF SESSION

At 4:07 p.m., the session was resumed.

COMMITTEE REPORT NO. 16
SENATE BILL NO. 2671
(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2671 (Committee Report No. 16), entitled

AN ACT STRENGTHENING THE
CAREER EXECUTIVE SYSTEM.

Senator Sotto stated that the parliamentary status was the period of interpellations.

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Thereupon, the Chair recognized Senator Trillanes, Sponsor of the measure, and Senator Zubiri for his interpellation.

MANIFESTATION OF SENATOR ZUBIRI

Senator Zubiri manifested that he would no longer interpellate on the bill since the issues he wanted to raise had already been addressed and incorporated in the committee amendments.

MANIFESTATION OF SENATOR TRILLANES

At the outset, Senator Trillanes acknowledged that the points raised by Senator Drilon in his interpellation were well-taken. He stated that he had the opportunity to review the provisions of the proposed GOCC Governance Act (Senate Bill No. 2640) during the break and he fully agreed with Senator Drilon that there was need to make certain changes to Senate Bill No. 2671 to avoid conflicts with the GOCC bill. The provision on the "Fit and Proper Rule" in Senate Bill No. 2640, he noted, adequately addresses the need to impose a set of standards on directors/officers of GOCCS. He said that at the proper time, he would propose an amendment to remove the officers of the GOCCs from the coverage of Senate Bill No. 2671.

Senator Trillanes stated that he would also introduce an amendment to the bill to make it clear and categorical that the determination, resolutions and decisions of the CES Board shall be appealable to the Civil Service Commission, consistent with the constitutional mandate that the CSC shall be the central personnel agency of the government.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2671

Upon motion of Senator Sotto, there being no objection, the Body suspended consideration of the bill.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:11 p.m.

RESUMPTION OF SESSION

At 4:57 p.m., the session was resumed.

CHANGE OF REFERRAL


Upon motion of Senator Sotto, there being no objection, the Body approved the change of referral of Senate Bill No. 2660 from the Committee on Rules to the Committee on Education, Arts and Culture.

ADJOURNMENT

Upon motion of Senator Sotto, there being no objection, the President Pro Tempore declared the session adjourned until three o'clock in the afternoon of the following day.

It was 4:58 p.m.

I hereby certify to the correctness of the foregoing.


EMMA LIRIO-REYES
Secretary of the Senate

Approved on February 8, 2011