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SESSION NO. 72

Tuesday, March 8, 2011

**FIFTEENTH CONGRESS
FIRST REGULAR SESSION**

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CALL TO ORDER

At 3:34 p.m., the Senate President Pro Tempore, Hon. Jinggoy Ejercito Estrada, called the session to order.

PRAYER

The Body observed a minute of silent prayer.

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:

Angara, E. J.	Legarda, L.
Arroyo, J. P.	Marcos Jr., F. R.
Cayetano, P. S.	Osmeña III, S. R.
Drilon, F. M.	Recto, R. G.
Ejercito Estrada, J.	Sotto III, V. C.
Escudero, F. J. G.	Villar, M.
Honasan, G. B.	Zubiri, J. M. F.
Lapid, M. L. M.	

With 15 senators present, the Chair declared the presence of a quorum.

Senators Guingona, Pangilinan and Trillanes arrived after the roll call.

Senators Cayetano (A) was on official mission.

Senator Defensor Santiago was likewise on official mission abroad.

Senate President Enrile was on sick leave.

Senators Lacson and Revilla were 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. 71 (March 3, 2011) and considered it approved.

**ACKNOWLEDGMENT
OF THE PRESENCE OF GUESTS**

At this juncture, Senator Sotto acknowledged the presence in the gallery of the following guests:

- High school students from Chiang Kai Shek College;
- Councilors from Lamitan City, Basilan Province led by Councilor Hegem Furigay; and
- Mayor Montasir Sabal and the municipal councilors of Talitay, Maguindanao.

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

**DEFERMENT
OF THE REFERENCE OF BUSINESS**

Upon motion of Senator Sotto, there being no objection, the Reference of Business was deferred to a later hour.

PRIVILEGE SPEECH OF SENATOR LEGARDA

Availing herself of the privilege hour, Senator Legarda delivered the following speech on the occasion of the International Women's Day:

"GENDER EQUALITY AND WOMEN EMPOWERMENT: A CAUSE FOR BOTH GENDERS"

Sa araw pong ito ay pinagdiriwang natin ang International Women's Day at ang buwan ng Marso naman ay kinikilala natin bilang Women's Month o Buwan ng mga Babae.

Ang papel na ginagampanan ng mga babae sa ating lipunan ay patuloy na nagbabago. Matapos mabigyan ng pagkakataong makapag-aral, ang mga babae ay naging aktibong bahagi na ng puwersang manggagawa, kadalasa'y gumagawa ng trabahong dati'y laan lang paru sa mga lalaki. Isang magandang halimbawa po ay ang hakbang ng ilang bus companies na kumuha ng babaeng driver na tinuruang magmaneho ng Technical Education and Skills Development Authority (TESDA) at rekomendado ng Metro Manila Development Authority.

Pero sabi nga nila, hindi komo maraming babae na ang nakapagtrabaho ay sapat na ito. Hindi komo nakikibahagi na sila sa paggawa ng desisyon sa pamilya, sa komunidad at sa bansa, ay nangangahulugang pantay na sila sa mga lalaki.

Noong 2010, naglabas po ang Forbes Magazine ng kanilang "Most Powerful People in the World." Sa 68 po na nasa lista, lima lang dito ang babae – sina Angela Merkel, Chancellor ng Germany, si Sonia Gandhi, Presidente ng Indian National Congress; si Brazilian President Dilma Rousseff, si U.S. Secretary of State Hillary Clinton; at si Oprah Winfrey. Sa tinatayang 33 hilyong babae sa buong mundo, o 49% ng kabuuang populasyon, li-lima lang po ang itinuturing na powerful, o may sapat na kapangyarihan.

Dito sa Pilipinas, ang partisipasyon ng mga babae sa pulitika at pamamahala ay nasa 18% lang ng elected posts noong 2010 elections.

Noong 2007 senatorial elections, apat lang ang babae sa 37 na kandidato. Sa apat pong kandidatong iyon, iisa lang po ang pinalad na maglingkod. Sa taon ding iyon, 51 lang ang babaeng pinalad na maging representante noong 14th Congress sa kabuuang 240 puwesto.

Sa edukasyon naman po, totoo, mas marami ang mga babaeng nakapag-enrol sa elementary at secondary education. Sa school year 2008-2009, ang female net enrollment ratio (FNER) sa public elementary level ay nasa 85.71%. Ang male NER ay nasa 84.56%.

Pero sa mga nakapagtrabaho matapos mag-aral, mas marami pa rin ang lalaki. Batay sa October 2009 Labor Force Survey (LFS), ang Labor Force Participation Rate (LFPR) para sa babae ay nasa 49.3% at ang mga lalaki ay nasa 78.8%.

Patuloy naman ang pagtaas ng mga kaso ng karahasan laban sa mga babae. Matapos ang anim na taong pagbaba sa bilang ng mga kaso mula 2001 hanggang 2006, lumala itong muli. Batay sa records ng Philippine National Police, nagkaroon ng 5,720 kaso ng violence against women noong 2007. Tumaas pa itong lalo noong 2008 - 6,905 kaso; at noong 2009 - 9,485 na kaso.

Malinaw na marami pang kailangang gawin para makamit natin ang mithiing pagkakapantay-pantay ng mga babae at lalaki sa lipunang Pilipino. Mahaba pa ang laban para sa pagbibigay ng sapat na kapangyarihan at kakayanan sa mga babae.

Marami na tayong nagawa. Naipasa na natin ang maraming batas para sa kababaihan. Nandiyan ang Anti-Violence Against Women and Children Act (RA 9261), ang Anti-Discrimination Against Women Act (RA 6725), ang Women in Development and Nation-Building Act (RA 7192), ang Rape Victim Assistance and Protection Act (RA 8505), at ang Magna Carta of Women (RA 9710).

At wala po tayong balak tumigil sa paglikha o pagpapaigting ng mga batas para sa kapakanan ng mga babae.

Naiham ko na po ang Senate Bill No. 1434, o ang "Women Empowerment Act." Layunin po ng batas na ito na tunay na mabigyan ng sapat na representasyon ang mga babae sa pamamahala. Sa panukala po nating ito, dapat i-reserba ang ilang percentage ng mga posisyon sa iba't ibang sangay ng gobyerno para sa mga babaeng kuwalipikado sa mga naturang trabaho.

Nandiyan po ang Senate Bill No. 1436, o ang "Act Expanding the Coverage of Rape Crisis Centers." Ang panukalang batas pong ito ay mag-aamya sa ilang bahagi ng Republic Act No. 8505. Papalawakin po natin ang saklaw ng mga tulong at proteksyon na ibibigay sa mga biktima ng rape. Magiging bahagi na rin ng

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programa ang mga babaeng naging biktima ng iba pang porma ng karahasan kaugnay ng kaniyang pagiging babae, pati na ang mga krimen laban sa mga bata at ina.

Naghain din po ako ng iba pang batas para naman tugunan ang ilang health concerns ng mga babae

Nandiyang ang Senate Bill No. 1393, o "An Act Establishing Breast Care Centers Nationwide" at Senate Bill No. 1399, o "Breast Cancer Detection Act" na sisigurong lahat ng babae ay may access sa pasilidad at procedures para sa early detection, prevention at paggamot ng breast cancer.

Ang Senate Bill No. 1398 naman ay gumagarantiyang lahat ng babaeng pasyenteng sasailalim ng cosmetic procedure ay bibigyan ng sapat na atensyong medikal, laluna ang mga babaeng pasyenteng hindi alam na sila'y huntis nang magpa-opera.

Nailatag na natin ang pundasyon para sa isang lipunang gumagalang sa karapatan ng kababaihan at nagbibigay pahalaga sa kanyang kontribusyon sa bayan.

Pero wika nga po nila, sa implementasyon, doon nagkakatalo Anumang pagka-dakila ng layunin ng Senado para sa kababaihan ay nawawalang-saysay kapag ang batas ay hindi naipatutupad at naipatutupad ng tama.

Taun-taon, tuwing Marso, pinagdiriwang natin ang Buwan ng mga Babae. Baguhin po natin ang takbo simula sa taong ito. Gawin nating makahulugan ang bawat Marso ng taon hindi lang sa pagbibigay-puri sa mga kababaihan. Siguruhin nating ang mga batas nating ginagawa para sa kanilang kapakanan ay maipatutupad. Siguruhin nating nasa una ng national agenda ang mga reporma para sa karapatan ng mga kababaihan.

Ang laban para isang Pilipinas na mapagkalinga sa babae ay hindi lang laban ng mga kababaihan. Ang laban na ito ay para rin sa mga lalaki ... mga lalaking mayroong nanay, asawa, kapatid, anak o kaibigang babae

Simumang lalaking may matimong pag-iisip ay hindi papayag na ang mahahalagang babae sa kaniyang buhay ay walang laban, inaali-pusta at inaabusu. Makakahinga nang mahuwag ang mga lalaki kung alam nila na ang mga babaeng ito ay may kakayahang ipagtanggol ang kanilang sarili; may kakayahang abutin ang kanilang mga pangarap at maging mahusay at maayos sa piniling buhay.

Ang kampanya para sa pagkakapantay-pantay ng babae at lalaki ay mapagtatagumpayan lang natin sa pamamagitan ng pagtutulungan. Hindi po ito tunggalian ng kasarian. Sa kampanyang ito, hindi natin mithi na manaig ang babae sa lalaki o ang lalaki sa babae.

Ang tangi nating mithi ay ang isang Pilipinas kung saan ang mga lalaki at babae ay magkakapantay, magkakaugnay, magkahawak-kamay at sumusulong para sa isang mas maunlad na Pilipinas

MANIFESTATION OF SENATOR CAYETANO (P)

Senator Cayetano (P) said that she would give way to the GOCC bill and would deliver her privilege speech the following day.

In recognition of the significance of International Women's Day, Senator Cayetano (P) emphasized the need for every baby, who is undisputedly a blessing, to have a decent life. However, she lamented that every day, eleven mothers die from childbirth, leaving motherless hundreds of infants and their siblings who grow up without knowing what it is like to have a mother nor will they ever see a mother's smile, be held in her arms, and be enveloped in her love.

At this juncture, Senator Cayetano (P) acknowledged the presence in the gallery of the following members of the Mu Sigma Phi Fraternity who have prepared films featuring women and children to be shown in the fraternity's Second Film Festival: Donnie Saquiza of "Ang Ina;" Aiza Jean Edanan of "Limang Libo;" Edgar Baltazar of "Tinalikdan;" and Dir. Anthony Cordero from U.P. Manila's Center for Gender and Women Studies.

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

At this point, Senator Cayetano (P) requested everyone to view a two-minute film clip which is a primer to the aforementioned films.

SUSPENSION OF SESSION

Upon motion of Senator Cayetano (P), the session was suspended.

It was 3:48 p.m.

RESUMPTION OF SESSION

At 3:51 p.m., the session was resumed.

Upon resumption, the film clip was shown.

MANIFESTATION OF SENATOR ZUBIRI

At this juncture, Senator Zubiri congratulated Senator Cayetano (P) for the beautiful video presentation and for being the champion of her division in the XTERRA triathlon competition held recently in Cebu.

The Chair also congratulated Senator Cayetano (P).

COMMITTEE REPORT NO. 15 ON SENATE BILL NO. 2640

(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2640 (Committee Report No. 15), entitled

AN ACT TO PROMOTE FINANCIAL VIABILITY AND FISCAL DISCIPLINE IN GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS AND TO STRENGTHEN THE ROLE OF THE STATE IN ITS GOVERNANCE AND MANAGEMENT TO MAKE THEM MORE RESPONSIVE TO THE NEEDS OF PUBLIC INTEREST AND FOR OTHER PURPOSES.

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

Thereupon, the Chair recognized Senator Drilon, Sponsor of the measure, and Senator Arroyo for the continuation of his interpellation.

INTERPELLATION OF SENATOR ARROYO

(Continuation)

Senator Arroyo noted that the bill provided that the GOCCs would be assigned to certain departments, but it did not identify the departments to which they would be assigned. He asked whether the determination as to which departments the GOCCs would be assigned would be left to the discretion of

the Chief Executive. Senator Drilon replied that the present charters of the GOCCs already identified the specific departments to which the GOCCs are attached, an arrangement that the bill did not disturb.

Referring to *ex officio* memberships in the GOCC governing boards, Senator Arroyo lamented that the *ex officio* directors, who are usually department secretaries or undersecretaries, have not been a good example of effective management because of the demands of their work. He asked whether there is a way by which the assignment of department secretaries or undersecretaries as *ex officio* directors could be minimized. Senator Drilon admitted that there is neither rhyme nor reason in the charters of GOCCs providing for a certain number of *ex officio* directors in their boards. To illustrate, he noted the *ex officio* members in the following GOCCS:

- Civil Aviation Authority of the Philippines
 - seven out of seven;
- Center for International Trade Expositions and Missions
 - eight out of nine;
- Duty Free Philippines
 - four out of seven;
- Employees Compensation Commission
 - five out of seven;
- Home Guaranty Corporation
 - four out of seven;
- Human Settlements Development Corporation
 - six out of seven; and
- Laguna Lake Development Authority
 - four out of eight.

Senator Drilon stated that the Committee, in fact, considered the idea of limiting the *ex officio* membership in the boards of GOCCs, but it had difficulty in coming up with a reasonable standard by which the reduction can be authorized and by which the President can exercise the discretion of changing the number of *ex officio* members since the matter is specifically provided for in the law creating the GOCC. He stated that he would welcome the suggestion of Senator Arroyo on reasonable standards to be followed if the reduction of the *ex officio* membership of the board would be delegated.

As regards the manual to be prepared by the GCG, Senator Arroyo opined that it is not a very

good legislation if the formulation of the rules would be delegated to the implementing entity that is being proposed to be created. He asked whether the manual could be incorporated instead in the measure itself. Senator Drilon replied that the proposed Act could become too unwieldy. He pointed out that the manual is not the rules and regulations (IRRs) implementing the law.* He stated that a perusal of Section 5, paragraph (a), page 6 of the bill would show that there is no necessity of incorporating the manual in the law as this might unduly restrict* the discretion of the Chief Executive. He explained that the manual shall be consistent with the Medium-Term Philippine Development Plan and shall include, among others, the objectives of state ownership, which is already defined in the various charters of the GOCCs; the role of the national government in the governance of GOCCs; and the modes of implementation of the ownership policy, many of which are corporate principles that govern the rights of a stockholder, which is the government in the case of a GOCC.

Senator Arroyo clarified that he was more concerned as to who would author the manual, as he believed that the task would be better left to Congress rather than delegated to the GCG. He added that while it could be cumbersome, it could nonetheless effectively minimize the delegation of powers to the GCG. He further suggested that some provisions in the manual be incorporated in the proposed Act so as not to give GCG a blanket authority. In response, Senator Drilon explained that the manual simply contains performance commitments, charter statements, the relationship between the GOCC and the government agency to which it is attached, what matters should be disclosed to the public, and the Code of Ethics, all of which are not delegated powers* but principles that would generally govern the relationship between the stockholder and the directors which are found in corporate practices. However, he gave assurance that the Committee would review the matter to determine to what extent the general principles can be laid down in the measure.*

Senator Arroyo observed that while the GOCCs are attached to a particular department, it is the GCG which shall prepare the manual and not the concerned department. In view thereof, he asserted that it would be more efficient to delegate the preparation of the manual to the concerned department. Senator Drilon clarified that the manual would be

of general application and would not be limited to a particular GOCC or department. Notwithstanding, he said that the Committee would take into consideration the proposals to incorporate in the bill a provision stating in general principle the parameters of the manual and another provision to the effect that the GCG shall consult with the department secretary issues that are peculiar to the department and which affect the GOCC.

Asked who would decide the future of a GOCC in the event it collapses or goes bankrupt, Senator Drilon stated that ultimately the President has to make the decision, but, technically, the board of directors has to initiate the action before referring the same to the stockholders. He further explained that under the bill, in case the GOCC goes broke, the GCG has the authority to recommend to the President its abolition or privatization when any or all of the standards set forth in Section 5, paragraph (d) are present. He then read the pertinent provision on page 7 of the bill, to wit:

- d) Evaluate the performance and determine the relevance of the GOCC, and recommend to the President the reorganization, merging, streamlining, abolition or privatization of a GOCC.

Senator Drilon clarified that under the present proposal, the President has until June 30, 2015, within which to act on the recommendation of the GCG although the recommendation must be acted upon within 90 days. He emphasized that this is a delegated authority because if the concerned GOCC has a charter, it is Congress that has the authority to abolish. He pointed out that the delegated authority would be for a limited period of time because after June 30, 2015, the power to abolish a chartered GOCC reverts to Congress. He stated that rules on abolition under the Corporation Code would apply to a GOCC established under said Code.

Senator Arroyo asked who would play the primary role in determining whether a GOCC should be allowed to continue its operation or should be closed. Senator Drilon replied that it would be the President because the responsibility of the GCG is merely to recommend. He explained that in the process of making a decision on whether to accept or reject the recommendation of the GCG, the President would necessarily consult the Cabinet secretary whose department has direct supervision over the GOCC*

*As corrected by Senator Drilon on March 9, 2011

*As corrected by Senator Drilon on March 9, 2011

subject of the recommendation. He said that the process is a mechanism and a check which is inherent in the system of governance.

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

Senator Arroyo remarked that given the lack of delineation of powers, it would be difficult to reconcile conflicts between the GCG and the concerned departments.

Senator Drilon explained that if, for example, a chartered GOCC in the Department of Agriculture which the GCG believed should be abolished based on the standard set forth in Section 5 (d), the GCG could recommend its abolition to the President who, in turn, would consult the DA secretary before making a final decision.

To Senator Arroyo's concern that the GCG might become another bureaucratic layer because the President has to consult not only with the department secretary but also with the GCG, Senator Drilon clarified that if ever there would be a layering, it would end on June 30, 2015. He believed that there was a need for this layering because for several decades, the GOCCs have been such a burden to the government.

On a related matter, Senator Arroyo noted that under Section 5(d) of the bill, the performance of the GOCCs will be rated by the GCG. He then asked what would be the significance of the rating given by their mother departments. Senator Drilon pointed out that the departments have never rated the performance of the GOCCs because they have been acting like independent republics.

Senator Arroyo believed that the provision requires fine-tuning to prevent disputes between the GCG and the departments.

Asked how conflicts in ratings would be resolved, Senator Drilon pointed out that one of the reforms consistently recommended by various studies is to improve the monitoring and oversight over GOCCs through better governance, accountability and transparency. Specifically, he cited the Asian Development Bank (ADB) study which recommended the creation of a governance council, just like the GCG. He said that this concept is not really new

because Administrative Order No. 59, series of 1988, signed by President Cory Aquino and attested to by Exec. Sec. Catalino Macaraig, was issued precisely to revitalize the Government Corporate Committee which was reconstituted under Executive Order No. 236 dated July 22, 1987. He said that, in effect, the Committee was the predecessor of the GCG.

Senator Arroyo hoped that Senator Drilon would include in the bill other provisions that would reconcile their differences over certain matters.

Again on the issue of *ex officio* membership in the governing boards of GOCCs, Senator Arroyo recalled an executive order issued by President Cory Aquino which provided that no government official should have more than two *ex officio* memberships in government corporations. Senator Drilon replied that it was actually a case brought by the Civil Liberties Union before the Supreme Court questioning the compensation that department secretaries received as *ex officio* members of the boards. He clarified that the number of *ex officio* memberships was not the issue in said case. As regards the executive order, he recalled that it was then Executive Secretary Arroyo who recommended to the President to limit the number of *ex officio* membership of Cabinet secretaries.

Senator Arroyo asked if a limitation on the number of *ex officio* membership in the boards could be included in the bill, believing that a reiteration of a provision to that effect would not harm the bill. Senator Drilon replied that both Executive Order No. 24 and the bill have set the parameters for the compensation of the members of the board and he gave assurance that the Committee would reconcile the salary scheme under EO 24 with that of the bill.

Asked if the Committee would be willing to delete the provision allowing *ex officio* members to designate their alternates to the board, Senator Drilon explained that the provision was included in the bill precisely because a department secretary has so many *ex officio* memberships in various GOCCs. He said that consistent with the Supreme Court decision allowing the secretary to delegate his authority only if so provided by law, the Committee decided to include the same in the bill but with the proviso that the acts of subordinates shall be considered as the acts of the principal.

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However, Senator Arroyo pointed out that an incongruous situation may arise where a senior deputy secretary, who was designated by the Cabinet secretary as his alternate, may actually preside over the meeting of the board whose other *ex officio* members are full-time Cabinet secretaries. Senator Drilon noted that it is an anomaly that Congress itself created by mandating the appointment of Cabinet secretaries as *ex officio* members of the boards.

To the contention that the bill can already eliminate such anomaly, Senator Drilon doubted if it can be done in just one bill considering that there are at present more than one hundred charters. Nonetheless, he said that he would be willing to do it as long as there is a reasonable standard for the President to reorganize the GOCCs by reducing the number of *ex officio* memberships in the boards.

Senator Arroyo commented that in the Senate hearings, when a deputy secretary airs his views or positions, they are not as binding as those of the department secretary himself. Senator Drilon clarified that under the bill, the department secretary will be bound by the acts of his subordinate or alternate in the board meetings.

But Senator Arroyo pointed out that since the GOCC charter allows an *ex officio* member to appoint an alternate, the acts of the alternate will be considered the acts of the principal even without Section 17. He clarified that he was merely suggesting that the problem be met head on while the problems of the GOCC were still being discussed on the floor. He said that Senator Drilon could make the necessary adjustments in the bill.

Referring to Section 28, Senator Arroyo what the phrase "before registering the same with Securities and Exchange Commission" meant, specifically whether it refers to a new corporation established under the Corporation Code or a corporation established by an act of Congress.

Senator Drilon explained that it referred to a new corporation or a subsidiary established under the Corporation Code. He pointed out that if it was created by Congress, then the process itself would require extensive scrutiny. He admitted that he himself could not figure out the number of subsidiaries that had been created under the Corporation Code.

In order to regulate the otherwise unrestricted power of GOCCs to organize subsidiaries, Senator Drilon said that he would propose to amend the pertinent provision to include purchases of corporations. He cited the LWUA that purchased a corporation on* its own account. He said that the Committee could not even provide the senators with a list of all the subsidiaries created by the GOCCs as their actual number has yet to be determined.

As to the observation that the bill made no mention of such subsidiaries, Senator Drilon adverted to page 5, lines 19 to 21 of the bill which defines a "subsidiary" as a corporation where at least a majority of the outstanding capital stock is owned or controlled, directly or indirectly through one or more intermediaries, by the GOCCs. He said that the definition covers GOCCs and their subsidiaries.

Asked about the Government Instrumentalities with Corporate Powers (GICP), Senator Drilon pointed out that page 3 of the bill adopted the Supreme Court's definition of the GICP as "an agency of the government, which is neither a corporation nor an agency that is integrated with the departmental framework, but vested by law with special functions and endowed with corporate powers." He cited government entities such as the Philippine Ports Authority, the Philippine Deposit Insurance Corporation and the Metropolitan Waterworks and Sewerage System as examples of GICPs as there are no* shares of stock to evidence ownership but are considered government instrumentalities with corporate powers.*

On whether he would welcome an amendment which would not only broaden but also be more specific on the subsidiaries that are covered by the measure, Senator Drilon replied in the affirmative.

SUSPENSION OF SESSION

Upon motion of Senator Arroyo, the session was suspended.

It was 4:40 p.m.

RESUMPTION OF SESSION

At 4:42 p.m., the session was resumed.

*As corrected by Senator Drilon on March 9, 2011

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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. 2640

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

REFERRAL OF SPEECHES TO COMMITTEE

Upon motion of Senator Sotto, there being no objection, the Chair referred the privilege speech of Senators Legarda and the manifestation of Cayetano (P) to the Committee on Youth, Women and Family Relations.

PRIVILEGE SPEECH OF SENATOR ANGARA

Availing himself of the privilege hour, Senator Angara expressed concern over the recent incursion of Chinese patrol boats into Philippine territorial waters.

He quoted media reports the previous week how Chinese vessels stopped a Philippine marine research vessel conducting seismic surveys in the Reed Bank which is only 80 nautical miles from Palawan and within the country's 200-nautical mile exclusive economic zone.

He asserted that the Philippine government should formally protest against the incursion and discuss the incident with China, as the latter might lay claim over areas where the Philippines could source valuable gas and oil resources. He asked why China has suddenly staked its claim on the Reed Bank when no other country has ever complained about previous explorations that were conducted by Filipino companies in that area.

Senator Angara also believed that while China continues to hold on to its claim over the Spratly group of islands, the Reed Bank is part of the geographical mass of Palawan and as such, is part of the Philippines' continental shelf. He informed the Body that the marine vessel that was commissioned

by the government to conduct the exploration has discovered almost 3.3 trillion cubic meters of gas within that zone and about a billion cubic meters of oil within the area. He lamented that the slow-moving government patrol boats and low-flying airplane guarding the Reed Bank are practically useless against the powerful Chinese naval fleet that was deployed in the South China Sea.

Moreover, he pointed out that even if the Reed Bank is part of the Spratly Islands, China and the ASEAN are bound to abide by a code of conduct which they signed in 2002 prohibiting members from resorting to any threatening moves in the area since any dispute or territorial conflict would have to be resolved through peaceful means.

Senator Angara said that he spoke to formally protest the Chinese intrusion particularly since the Philippines has not given the latter a reason or justification to invade its territorial waters.

INTERPELLATION OF SENATOR EJERCITO ESTRADA

Preliminarily, Senator Ejercito Estrada commended Senator Angara for bringing the matter as he informed the Body that he had been recently updated on the situation in the Spratly group of islands.

Asked on the number of islands in the Spratly group, Senator Angara replied that it consists of small islands and islets, some of which, like the Pagasa island, are being claimed and occupied by the Philippines since the 1970s. He said that other countries of the ASEAN like China, Vietnam, Malaysia and Brunei have recently erected airports and military barracks in several of the islands.

Senator Ejercito Estrada noted that unlike the Philippines, other countries have already made improvements to some of the islands that are under their control in the area. He expressed concern over the fact that since the Philippines only has a small contingent of 90 soldiers stationed in these islands, they could easily be overpowered by the large number of troops sent by China, Vietnam and Malaysia.

Senator Angara admitted that although the Philippines occupies one island where it has built an airport and several buildings to house military personnel, the government has not done much to

make improvements in the area or fortify its post unlike Vietnam and China.

Senator Ejercito Estrada pointed out that Malaysia currently occupies five islets, has developed a dive resort and maintains a naval base which can accommodate heavy transport and aerial reconnaissance aircraft in the area. On the other hand, he noted that China's strong armed forces and growing economy, which has even overtaken Japan, shows that it has the capability to dominate the other claimants. Further, he said that China has not only made a notable relocation of machine guns and installation of other equipment in areas such as the Cuarteron, Fiery Cross and Subi reefs but has also intensified military activities in the area. He said that Vietnam has also installed new communication equipment and made other impressive improvements in their occupied islands.

Senator Angara commended Senator Ejercito Estrada for bringing to the Body the report on the Spratly Islands as he underscored that other claimant-countries were active in building up their occupation and strengthening their defenses while the Philippines was confined to a solitary island with one military post.

On the reason why China and other claimant-countries were active in the area, Senator Angara explained that the Spratly group of islands is a valuable territory because it contains one of the largest gas and oil reserves, as revealed by the seismic exploration. Thus, he believed that the Philippines must be assertive and active in protecting and defending its claim despite the code of conduct agreed upon between claimant-countries that no bullying should happen. He opined that claimant-countries, despite friendly relations, would always try to put their interests over and above anyone else. He suggested that efforts should be pursued through diplomacy, noting that the Philippines cannot assert its claim through force of arms. He suggested that the country ought to resort to a condominium sort of development by taking part in multinational activities to explore, exploit, and develop the area as had been done by Norway and Sweden in the North Sea. He said that the area could be made the Philippines self-sufficient in energy if the development of resources can be pursued with the claimant-countries.

At this juncture, Senator Ejercito Estrada adverted to the report of the West Command, to wit:

For the Philippines, there had been no improvements in the occupied islands at the KIG, the Kalayaan Island Group. Structures still remained in a makeshift style with extremely depleted number of personnel. In Commodore Reef, it is only manned by four enlisted personnel; Patag Island also manned by four; Panata Island by four enlisted personnel; Kota Island manned by four military personnel; Lawak, Parola, Likas, Ayungin and the Pag-asa manned by one officer and 15 EPs.

West Com's defense assets are not sufficient to implement the required military actions. With these realities our defense postures at KIG remains to be reactive on develop-ing situations. Due to our inability to guard our territories, we continuously ride on the diplomatic impasse of the claimant countries as a result of the establishment of the following confidence-building measures.

The Declaration of the Conduct of Parties in the South China Sea was signed to ease tensions between claimant countries in 2002. However, Taiwan was not included in the declaration of conduct. Hence, the non-binding in character had made it fragile and tenuous.

Senator Ejercito Estrada surmised that the only recourse of the Philippines, in the event its territory was invaded by other claimant-countries, is to file a diplomatic protest because the country does not have a strong armed forces to defend its claims.

Senator Angara agreed to the observation, adding that the country could also ask assistance from the ASEAN, which bonded together and pledged to help each other vis-à-vis the Chinese claims. He said that the other process, which could be long and seems feeble, is to file a protest with the United Nations.

As regards the suggestion of Senator Arroyo to put up an economic zone in the Spratly Islands, similar to the Aurora Economic Zone, as a solution to the problem, Senator Angara welcomed the proposal. He observed that the net effect of the claims of China over many parts of Asia like the Spratly Islands, and several small islands between Taiwan and mainland China, would allow China to control the South China Sea, the most busy navigational route in Southeast Asia and, thus, all the resources within it. He said that other claimant-countries would have nowhere else to go but back to the traditional ancient navigational route in the Pacific Ocean, where the Aurora Pacific Zone is strategically situated. He suggested that the country must begin avoiding

the South China Sea and concentrate on the Pacific Ocean where the Philippines is the king, occupying almost 1,000 miles of the Pacific.

REMARKS OF THE CHAIR

Senator Zubiri commended Senator Angara for raising the issue as he revealed that he also wanted to bring the matter to the Body, noting that oil and gas reserves are matters of national security. He recalled that he raised the same issue in the 11th, 12th and 13th Congresses when he was still a member of the House of Representatives. He agreed to the observation of Senator Angara that the country is defenseless when it comes to protecting its claims to the KIG. He also commended Senator Ejercito Estrada for the report he presented even as he lamented that during the turnover ceremonies for General Oban, the new AFP Chief of Staff, President Noynoy Aquino failed to mention among the priorities of his Administration the security aspect in the KIG. He stated that matters of national security should be looked into, for instance, the Malampaya Gas reserve which, according to the officers of the Philippine Navy, cannot be defended because they cannot maintain their presence in the area for lack of logistics. He surmised that another way to counter the problem is to modernize the AFP, which he said could be done after cleaning it up.

MANIFESTATION OF SENATOR LEGARDA

Senator Legarda informed the Body that the Department of Foreign Affairs is yet to receive a reply on the diplomatic protest it filed with the Chinese Embassy in Manila. She confirmed that the Philippines is a signatory to the Declaration of Conduct (DOC) of Parties in the South China Sea, with China and ASEAN-member countries in 2002. She read part of the Declaration, to wit:

The parties concerned undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea.

Senator Legarda therefore underscored the importance of keeping peace and stability in the region and for the parties to exert goodwill and

positive efforts to abide by the principles laid down in the DOC. She stated that these recent incidents have to be looked into towards ensuring that the parties continue to remain committed to the DOC and its principles, key among which are prohibition against resorting to threats or the use of force.

She also stressed the importance of approaching this incident with the view to ensuring that the parties will remain committed to exploring ways for building trust and confidence on the basis of equality and mutual respect. She noted that the Reed Bank incident underscores the importance of a Code of Conduct in the South China Sea towards promoting lasting peace and stability in the region, and that there is need to ensure that parties remain committed to resolving territorial and jurisdictional disputes by peaceful means without resorting to the threat or use of force.

Senator Legarda stated that the feedback from China on the DFA protest would be welcomed. She added that China has resisted any multilateral talks as it prefers bilateral talks when it comes to issues affecting the South China Sea.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Sotto, there being no objection, the Chair referred the speech of Senator Angara and the related interpellation and manifestation to the Committee on Foreign Relations.

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 20 on Proposed Senate Resolution No. 414 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 20 ON PROPOSED SENATE RESOLUTION NO 414

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Proposed Senate Resolution No. 414 (Committee Report No. 20), entitled

RESOLUTION CONCURRING IN THE RATIFICATION OF THE AGREEMENT ON TECHNICAL COOPERATION BETWEEN THE GOVERNMENT OF

pp

THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF JAPAN.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Sotto, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

Thereupon, the Chair recognized Senator Legarda for the sponsorship.

**SPONSORSHIP SPEECH
OF SENATOR LEGARDA**

In presenting Proposed Senate Resolution No. 414 for plenary consideration, Senator Legarda delivered the following speech:

**PHILIPPINE-JAPAN AGREEMENT
ON TECHNICAL COOPERATION**

Your Committee on Foreign Relations has the honor to report back the Philippine-Japan Agreement on Technical Cooperation under Committee Report No. 20, taking into account Proposed Senate Resolution No. 414, entitled "Resolution Concurring in the Ratification of the Agreement on Technical Cooperation Between the Government of the Republic of the Philippines and the Government of Japan," recommending its approval.

Official Development Assistance (ODA) plays an essential role, serving as a complement to other sources of financing for development. For the Philippines, ODA serves as a crucial instrument for supporting education, health, public infrastructure development, agriculture and rural development, and for enhancing food security. For a country with myriad concerns and endless economic challenges, ODA supplements our government's meager resources toward promoting sustainable development.

One of the forms of official development assistance provided by Japan is technical cooperation which is aimed at supporting our development through: (1) training programs in Japan; (2) the dispatch of technical cooperation experts to the Philippines to impart technical knowledge and skills to various agencies; (3) provision of equipment and materials; and (4) the conduct of development studies.

For the period 2000-2008, the Japan International Cooperation Agency (JICA)

implemented 116 technical cooperation projects amounting to about P25.5 billion.

The magnitude and extent of Japan's technical cooperation projects over the years underscore the importance of the Agreement on Technical Cooperation with Japan. This instrument reduces administrative burdens and helps synergize the technical assistance from Japan.

This Agreement will replace the redundant process of having to periodically exchange *note verbales* for each and every technical cooperation project between Japan and the Philippines. The practice of issuing *note verbales*, in the absence of the Agreement on Technical Cooperation, creates an unnecessary redundancy as each and every *note verbale* contains the same information on tax exemptions, immunities, and privileges of Japanese experts dispatched here in the Philippines.

Development is a partnership and, as such, donor and recipient countries need to cooperate on the basis of a duly-established framework for cooperation. This is what the Agreement on Technical Cooperation between Japan and the Philippine offers. This Agreement lends emphasis to our role as a recipient country that is charged with directing our development agenda and assuming responsibilities as well.

The Agreement institutionalizes cooperation activities between our country and Japan under a single instrument that will cover (1) technical training in Japan; (2) experts dispatch; (3) volunteer dispatch; (4) equipment, machinery, and materials supply; (5) dispatch of missions "to conduct surveys of economic and social developments projects in the Philippines"; and (6) conduct of other forms of technical cooperation as may be agreed upon by the Philippine and Japanese governments. Furthermore this Agreement provides a new dimension in the scope of technical cooperation, to cover Japan's dispatch to the Philippines of senior volunteers who are esteemed for their expertise and extensive experience.

As we aim to more effectively manage our technical cooperation projects with Japan under this Agreement, so shall we continue to also provide for tax exemptions, privileges and benefits to Japanese consultants and volunteers coming to the Philippines under the framework of this Technical Cooperation Agreement.

The Agreement also offers flexibility. Nothing in this Agreement removes us from the process of discussing and agreeing with Japan

the unique terms, coverage, and nature of projects that we wish to pursue with Japan under this cooperation framework. This will allow us to allocate technical cooperation resources in line with our national priorities.

This Agreement has had the benefit of review and consultations by the Committee on Foreign Relations of the 14th and the current Congress.

I submit this measure for consideration by this august Chamber, trusting that the Senate's concurrence with this measure will signal an even stronger and meaningful cooperation with Japan.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

There being no interpellation, upon motion of Senator Sotto, there being no objection, the Body closed the period of interpellations and proceeded to the period of amendments.

TERMINATION OF THE PERIOD OF AMENDMENTS

There being no individual and committee amendment, upon motion of Senator Sotto, there being no objection, the Body closed the period of amendments.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 5:15 p.m.

RESUMPTION OF SESSION

At 5:15 p.m., the session was resumed.

APPROVAL OF PROPOSED SENATE RESOLUTION NO. 414 ON SECOND READING

Submitted to a vote, there being no objection, Proposed Senate Resolution No. 414 was approved on Second Reading.

REFERENCE OF BUSINESS

The Deputy Secretary for Legislation, Atty. Edwin

B. Bellen, read the following matters and the Chair made the corresponding referrals:

BILLS ON FIRST READING

Senate Bill No. 2733, entitled

AN ACT ESTABLISHING AN "ADOPT-A-WILDLIFE SPECIES PROGRAM," PROVIDING INCENTIVES THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Lapid

To the Committees on Environment and Natural Resources; Ways and Means; and Finance

Senate Bill No. 2734, entitled

AN ACT ESTABLISHING HOMES FOR THE ELDERLY IN EVERY REGION, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Lapid

To the Committees on Social Justice, Welfare and Rural Development; and Finance

Senate Bill No. 2735, entitled

AN ACT CONFERRING CAREER SERVICE PROFESSIONAL ELIGIBILITY UPON REGULAR AND *EX-OFFICIO* MEMBERS OF THE SANGGUNIANG BAYAN, SANGGUNIANG PANLUNG-SOD AND SANGGUNIANG PANLA-LAWIGAN, AND FOR OTHER PURPOSES

Introduced by Senator Ejercito Estrada

To the Committees on Civil Service and Government Reorganization; and Local Government

RESOLUTIONS

Senate Joint Resolution No. 9, entitled

JOINT RESOLUTION EXTENDING THE PERIOD OF EXISTENCE OF THE

to

JOINT CONGRESSIONAL POWER
COMMISSION

Introduced by Senators Osmeña III, Escudero,
Guingona III, Honasan II, Arroyo and
Legarda

To the Committees on Energy*

Proposed Senate Resolution No. 415, entitled

RESOLUTION EXPRESSING THE SENSE
OF THE SENATE TO SUPPORT THE
DECADE OF ACTION FOR ROAD
SAFETY 2011-2020

Introduced by Senator Revilla jr.

To the Committee on Rules

Proposed Senate Resolution No. 416, entitled

RESOLUTION REQUESTING THE
DEPARTMENT OF FOREIGN AFFAIRS,
THE DEPARTMENT OF LABOR
AND EMPLOYMENT, AND THE
PHILIPPINE OVERSEAS EMPLOY-
MENT ADMINISTRATION TO LOOK
INTO THE SITUATION OF FILIPINOS
IN IRAQ TOWARD AFFORDING
THEM PROTECTION WITHIN THE
PARAMETERS PROVIDED UNDER
THE MIGRANT WORKERS AND
OVERSEAS FILIPINOS ACT OF 1995,
AS AMENDED

Introduced by Senator Legarda

**To the Committees on Labor, Employment
and Human Resources Development;
and Foreign Relations**

Proposed Senate Resolution No. 417, entitled

RESOLUTION DIRECTING THE COM-
MITTEE ON FOREIGN RELATIONS
TO CONDUCT AN INQUIRY, IN AID
OF LEGISLATION, ON THE PRE-
PAREDNESS OF THE DEPART-
MENT OF FOREIGN AFFAIRS (DFA),
IN COORDINATION WITH THE

OVERSEAS WORKERS WELFARE
ADMINISTRATION (OWWA) AND
OTHER RELEVANT AGENCIES OF
THE GOVERNMENT, IN ADDRESS-
ING ANY AND ALL CONTINGENCIES
THAT THREATEN THE SECURITY
AND WELL-BEING OF OVERSEAS
FILIPINOS IN TIMES OF CRISIS,
WITH THE END-VIEW OF ENSURING
THE EFFECTIVE IMPLEMENTATION
OF THE THIRD PILLAR OF THE
PHILIPPINE FOREIGN POLICY
WHICH IS TO PROTECT THE
RIGHTS AND PROMOTE THE
WELFARE AND INTERESTS OF ALL
FILIPINOS OVERSEAS

Introduced by Senator Legarda

**To the Committees on Foreign Relations;
and Labor Employment and Human Resources
Development**

**RECONSIDERATION OF THE APPROVAL
OF THE JOURNAL**

Upon motion of Senator Sotto, there being no
objection, the Body reconsidered the approval of the
Journal of Session No. 71.

**APPROVAL OF THE JOURNAL
AS CORRECTED**

Upon motion of Senator Sotto, there being no
objection, the Body dispensed with the reading of the
Journal of Session No. 71 and considered it approved
subject to the correction of Senator Zubiri on page
1157, right column, second paragraph under the
heading "REMARKS OF SENATOR ZUBIRI" to
insert the word ALLEGED before the word
"prostitutes."

REFERRAL OF SENATE BILL NO. 2431

Upon motion of Senator Sotto, there being no
objection, the Chair referred Senate Bill No. 2431 to
the Committee on Science and Technology as the
secondary committee.

CHANGE OF REFERRAL

At the instance of Senators Angara and Honasan,
upon motion of Senator Sotto, there being no objection,

*As corrected by Senator Sotto on March 9, 2011

the Chair approved the change of referral of Senate Bill No. 2676 from the Committee on Public Order and Dangerous Drugs to the Committee on Banks, Financial Institutions and Currencies as the primary committee.

COAUTHOR

Upon his request, Senator Lapid was made coauthor of Senate Bill Nos. 2486 and 2701, and Senate Joint Resolution Nos. 6 and 8.



ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, the Chair declared the session

adjourned until three o'clock in the afternoon of the following day.

It was 5:21 p.m.

I hereby certify to the correctness of the foregoing.


EMMA LIRIO REYES
Secretary of the Senate


Approved on March 9, 2011