



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 82
Wednesday, May 11, 2011

FIFTEENTH CONGRESS
FIRST REGULAR SESSION

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Wednesday, May 11, 2011

CALL TO ORDER

At 3:25 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

PRAYER

Sen. Antonio "Sonny" F. Trillanes IV led the prayer, to wit:

Dear Lord,

Teach us about humility and pride. Humility is realizing our weaknesses, faults, defects, and bravely acknowledging them which in turn pave the way to turn to our God and seek His helping hand and support in overcoming these weaknesses. Humility also acknowledges that the source of every talent, skill, and resource that we may possess comes from the mercy of our God and not from ourselves alone.

Pride opposes humility and results in selfishness. The self-centered man evaluates everything by the effect it will have on him personally. Selfishness consists of looking at everything from the point of view of personal advantage. Pride generates an inflated idea of one's own abilities and seeks the desire to be the center of attention.

Amen.

ROLL CALL

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

Angara, E. J.	Lapid, M. L. M.
Arroyo, J. P.	Legarda, L.
Cayetano, P. S.	Marcos Jr., F. R.
Drilon, F. M.	Osmeña III, S. R.
Ejercito Estrada, J.	Pangilinan, F. N.
Enrile, J. P.	Revilla Jr., R. B.
Escudero, F. J. G.	Sotto III, V. C.
Honasan, G. B.	Trillanes IV, A. F.
Lacson, P. M.	Zubiri, J. M. F.

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

Senators Guingona, Recto and Villar arrived after the roll call.

Senator Cayetano (A) was on official mission.

Senator Defensor Santiago was on sick leave.

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. 81 (May 10, 2011) and considered it approved.

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REFERENCE OF BUSINESS

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

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

Letters of His Excellency, President Benigno S. Aquino III, dated 27 January 2011 and 6 April 2011, respectively, submitting to the Senate for its consideration and concurrence the following:

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE INTERNATIONAL CENTER FOR LIVING AQUATIC RESOURCES MANAGEMENT (ICLARM) TO ESTABLISH AN OFFICE OF THE WORLDFISH CENTER IN THE PHILIPPINES,

which was signed on 22 April 2008 at Pasay City; and

EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

which was signed on 18 September 2009 in London.

To the Committee on Foreign Relations

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

Letter from Speaker Feliciano Belmonte Jr. of the House of Representatives, dated 8 February 2011, designating the following as House members to the Oversight Committee on Public Expenditures, pursuant to Republic Act No. 10147:

Representatives Abaya (J. E.), Limkaichong (J.), Benedicto-Angping (Ma. Z), Bravo Jr. (N.), Bondoc (A. Y.), Almario (T.), Ungab (I.), Jaafar (N.), Puno (R.), Crisologo (V.), Andaya Jr., (R.), Arago (M. E.), San Luis (E.), Cua (D. C.),

Malapitan (O.), Nava (J. C. R.), Joson (J.), Balindong (P.), Lacson-Noel (J. V.), Violago (J. G.), Osmeña, (T.), Haresco (T.) and Tomawis (A.), for the Majority; and

Representatives Lagman (E.), Magsaysay (Ma. M.), Padilla (C.), Cagas IV (M. D.) and Suarez (D.), for the Minority.

To the Committee on Rules

BILL ON FIRST READING

Senate Bill No. 2812, entitled

AN ACT GRANTING THE RADYO DE ORO CORPORATION FRANCHISE TO CONSTRUCT, INSTALL, ESTABLISH, OPERATE AND MAINTAIN RADIO AND TELEVISION BROADCASTING STATIONS IN THE CITY OF CAGAYAN DE ORO AND THE PROVINCE OF MISAMIS ORIENTAL, PHILIPPINES

Introduced by Senator Ejercito Estrada

To the Committee on Rules

RESOLUTIONS

Proposed Senate Resolution No. 459, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE URGING THE PRESIDENT TO EXERCISE PRUDENCE IN THE DISCHARGE OF ITS APPOINTING POWERS AND APPOINT ONLY INDIVIDUALS OF PROVEN COMPETENCE, UNSULLIED INTEGRITY AND UNQUESTIONABLE HONESTY TO THE VARIOUS POSITIONS IN THE EXECUTIVE AND JUDICIAL BRANCHES AND CONSTITUTIONAL OFFICES

Introduced by Senator Zubiri

To the Committee on Rules

Proposed Senate Resolution No. 460, entitled

RESOLUTION COMMENDING CONGRESS-

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MAN EMMANUEL "MANNY"
PACQUIAO FOR DEFENDING THE
WBO WELTERWEIGHT CROWN
AGAINST AMERICAN SHANE
MOSLEY

Introduced by Senator Revilla Jr.

To the Committee on Rules

COMMUNICATIONS

Letter from OIC-Executive Director Arturo M. Lachica, CESO II, dated 4 April 2011, transmitting to the Senate the 2010 Annual Report of the Career Executive Service Board, pursuant to the provisions of the 1987 Administrative Code, Section 43, Chapter II, Book I.

To the Committee on Civil Service and Government Reorganization

Letter from Mr. Orlando B. Vea, dated 15 April 2011, submitting to the Senate the 2010 NTC Annual Report and 2010 Audited Financial Statement of Primeworld Digital Systems, Inc. in compliance with Section 21 of Republic Act No. 8992.

To the Committee on Public Services

Letter from the Embassy of the People's Republic of China, dated 26 April 2011, requesting that the Department of Foreign Affairs facilitate an early ratification of the Consular Agreement Between The People's Republic of China and the Republic of the Philippines.

To the Committee on Foreign Relations

Letters from Atty. Enrico L. Español, dated 29 April 2011, submitting to the Senate the 2010 Annual Reports of the following: Smart Communications, Inc., in compliance with Republic Act No. 7294; Smart Broadband Inc., in compliance with Republic Act No. 8337; and Connectivity Unlimited Resource Enterprise Inc., in compliance with Republic Act No. 9130.

To the Committee on Public Services

Letter from the Office of the President of the Philippines, dated 3 May 2011, transmitting to

the Senate a certified copy of Executive Order No. 40, dated 29 April 2011, entitled

IMPLEMENTATION OF THE THIRD
TRANCHE OF THE MODIFIED
SALARY SCHEDULE FOR CIVILIAN
PERSONNEL AND BASE PAY
SCHEDULE FOR MILITARY AND
UNIFORMED PERSONNEL IN THE
GOVERNMENT

To the Committees on Civil Service and Government Reorganization; National Defense and Security; and Finance

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

**PRIVILEGE SPEECH
OF SENATOR ZUBIRI**

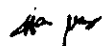
Availing himself of the privilege hour, Senator Zubiri urged Pres. Benigno Aquino to exercise prudence in filling up government positions.

The full text of his speech follows:

**THE ROAD LESS TRAVELLED:
ANG DAANG MATUWID**

There is, perhaps, no denying that the Administration of His Excellency, Pres. Benigno Simeon Aquino III, was catapulted into office on the promise of a moral revolution in governance. It made a pact with the Filipino people that, once elected, this Administration shall endeavor to bring about change by stamping out corruption in government and ultimately regaining the trust and confidence of our people.

The Aquino Administration introduced the phrase "Daang Matuwid" and made absolute good use of it as its battle-cry. "Daang Matuwid" was eventually translated into an action plan and became the underlying thrust of this Administration's governance particularly in its efforts to curb graft and corruption. This was enunciated during the President's first State of the Nation Address when he stated: "*Sa bawat sandali po ng pamamahala ay nahaharap tayo sa isang sangandaan. Sa isang banda po ay ang pagpili para sa ikabubuti ng taong-bayan; ang pagtanaw sa interes ng nakakarami, ang pagkapit sa prinsipyo at ang pagiging tapat sa sinumpaang nating tungkulin bilang lingkod-*



bayan. Ito po ang tuwid na daan. Sa kabilang banda ay ang pag-una sa pansariling interes, ang pagpapaalipin sa pulitikal na konsiderasyon at pagsasakripisyo ng kapakanan ng taumbayan. Ito po ang baluktot na daan. Matagal pong naligaw ang pamahalaan sa daang baluktot.” This Administration’s “*Daang Matuwid*” evolved into a catchphrase that reverberated across the country most especially along the corridors of our government.

“*Daang Matuwid*” is without a doubt a laudable objective. I could not agree more with the realization of this Administration that it is high time that our government took the lead in opting for the right and narrow path – the road less travelled, if you please. In fact, I rally behind this Administration in its efforts to institute reforms in our government and in the challenge it took on when it swore to make the fight against graft and corruption a priority. I believe no argument is forthcoming when I say that there is an imperative need to regain the trust and confidence of our people in our government institutions – and what better way than for our government to actually be at the forefront of reforms and be seen to be genuinely sincere in its efforts towards change.

I rise, however, in an honest attempt to put this Administration to task and hold it to its word. In line with the underlying thrust of opting for the “*Daang Matuwid*” and, more importantly, in the faithful adherence thereto, I humbly beseech this Administration to exercise prudence in the discharge of its appointing powers and, consequently, appoint only individuals of proven competence, unsullied integrity, and unquestionable honesty to fill the vacancies in the various positions in the Executive and Judicial branches and constitutional offices. I urge this Administration to refrain from naming appointees who are charged with offenses punishable under the Revised Penal Code or special penal laws, particularly those involving moral turpitude or graft and corruption.

I am convinced that the maintenance by our government of a high standard of integrity and competence as well as honesty and fair dealing is absolutely necessary to making our government an effective instrument for change. This is undoubtedly a prerequisite if this Administration is truly sincere in its pursuit for the “*Daang Matuwid*.” If this Administration intends to inspire the confidence, respect, and trust of the Filipino people, it must, at the very least, be able to subscribe to the exacting standards of moral integrity and unquestionable

honesty, always bearing in mind “*Daang Matuwid*” as an underlying principle and the fact that a government can only be as reputable as the people comprising it. This Administration must be beyond suspicion and avoid even the slightest appearance of impropriety.

I am completely aware of the constitutional guarantee that a person is presumed innocent until proven guilty. That is an underlying precept in all egalitarian societies, including ours. This presumption, however, does not fall squarely with what is sought to be achieved by this Administration’s “*Daang Matuwid*.” If this Administration is genuinely sincere in treading this path, stricter standards must necessarily be put in place. This, I believe, is the very essence of “*Daang Matuwid*” – a government that is at all times beyond reproach as in the case of *Royong vs. Oblena*, 7 SCRA 859: “The standard of personal and professional integrity is not satisfied by such conduct as it merely enables a person to escape the penalty of criminal law. Good moral character includes, at least, common honesty.

In view of the foregoing, this Representation filed Proposed Senate Resolution No. 459, expressing the sense of the Senate urging the President to exercise prudence in the discharge of its appointing powers and appoint only individuals of proven competence, unsullied integrity, and unquestionable honesty to the various positions of the Executive and Judicial branches and constitutional offices of government, in light of the fact that we are now outside the one-year ban for those who lost in the last May 11 elections.

In the same breath, I implore our colleagues in the Commission on Appointments to be more circumspect in the review of the list of nominees submitted for confirmation by the President. The Commission must bear in mind, before it gives its *imprimatur*, that the appointees whose appointment it confirms and, consequently, allows to join the ranks of government shall ultimately reflect the kind of government that we have. If the average Juan De La Cruz painstakingly lines up to procure an NBI clearance as a requirement for employment, whether in the private sector or the government sector, even for certain levels of government, an Ombudsman clearance is needed before they can even be appointed or promoted to higher office, with all the more reason that a bureaucrat must undergo a more rigorous process as a condition for appointment.

“Ang pagtanaw sa interes ng nakakarami, ang pagkapit sa prinsipyo at ang pagiging

tapat sa sinumpaang nating tungkulin bilang lingkod-bayan. Ito po ang turwid na daan," ayon kay Pangulong Aquino. Ako po ay sumasang-ayon. We cannot, in good conscience, allow the President to take this fight alone. This is a path that we should all take as a people ever mindful as to what "Daang Matuwid" entails as it undoubtedly entails something more, especially from our government.

INTERPELLATION OF SENATOR OSMEÑA

Asked by Senator Osmeña if he was referring to a current or prospective presidential appointee to a Cabinet position who is still subject to confirmation by the Commission on Appointments, Senator Zubiri stated that he did not want to jump to conclusions but he pointed out that the names of certain individuals were being floated for certain government positions and one of them is facing four counts of graft and corruption before the Sandiganbayan. Had the cases been filed in the Ombudsman or in the Department of Justice, he said, these can possibly be harassment cases which public servants are regularly subjected to. But, he noted, the cases he was referring to have reached the court, which meant that probable cause had been established. He stressed that the Aquino Administration should follow the yardstick of choosing credible and honest people with clean record in filling up government positions, even with politicians who lost in the 2010 elections.

Asked if he was referring to a particular person about to be appointed by the President, Senator Zubiri replied in the affirmative, as he appealed to the President not to appoint people with pending cases in the Sandiganbayan. He stressed that regardless of the political affiliation or the sectoral representation of presidential appointees, their backgrounds must be scrutinized more closely.

INTERPELLATION OF SENATOR ESCUDERO

Asked by Senator Escudero on the yardstick to be used in appointing people to government posts, Senator Zubiri replied that the appointees should not have pending cases before the Sandiganbayan or, for that matter, the lower court involving, for instance, moral turpitude or acts of lasciviousness.

Asked whether the number of cases filed against the possible appointee is immaterial, Senator Zubiri

said that the more cases filed against the appointee, the more unqualified he or she is for the appointment.

As to the rationale of the framers of the Constitution in putting a ban on the appointment to government posts of losers in the elections within one year from the date of elections since there is no similar ban on those who won in the elections, Senator Zubiri adverted to the adage, "to the victors belong the spoils." He noted, however, that in the military, there is a proposal to ban the appointment to government posts of recently retired military men so as to allow them to re-adapt to civilian life.

To the presumption that the rationale of the constitutional ban against the appointment of losing candidates is that they were rejected by the voters, Senator Zubiri agreed that, indeed, it is a good argument.

As regards officials who would be appointed without undergoing scrutiny by the CA, such as the department undersecretaries, Senator Zubiri expressed hope that the Senate as an institution could exact accountability from them, especially those with questionable integrity.

Even as he expressed support for the call of Senator Zubiri, Senator Escudero believed, however, that the President should be given the chance to exercise the discretion to appoint prudently, wisely, and in the best interest of the Filipino people. He also expressed hope that the President, whom he believed has not made any appointments to his Cabinet that violated the trust reposed upon him by the people, thus far, would continue along the line he started after his election in May 2010.

INTERPELLATION OF SENATOR DRILON

At the outset, Senator Drilon associated himself with the call for the President to exercise prudence in appointing people to government and to be circumspect in making his choices. He said that, in fact, the GOCC bill that has been recently approved by the bicameral conference committee contained a major reform, the Fit and Proper Rule that imposes a standard on the appointees to GOCCs.

Asked if he was aware of the appointments made by the President since he assumed office, Senator Zubiri acknowledged that he was not familiar

with all of the President's appointees to his Cabinet. However, he agreed that so far the President has been prudent and circumspect in his choices of officials, that he has been faithful to his platform of "*Kung walang corrupt, walang mahirap*," and that he has appointed people of competence and integrity to government posts. He clarified that his concern was on future appointments, in light of reports that politicians who lost in the 2010 elections were jockeying for position in government.

Senator Drilon pointed out that, precisely, there was no basis for any complaint at that point, considering the fact that there is the Commission on Appointments (CA), under the leadership of Senate President Enrile, that has been meticulously scrutinizing – and would continue to do so – the competence and fitness of appointees subject to confirmation.

Asked by Senator Zubiri, in turn, whether anyone in the last batch of Cabinet appointees has pending cases in the Sandiganbayan or the Regional Trial Courts, Senator Drilon replied in the negative.

However, Senator Drilon pointed out that given the competence of the previous Ombudsman, the mere presence or absence of a case before the Office of the Ombudsman or the Sandiganbayan should not be the sole yardstick to conclude that the appointee has the competence to hold the position. In fact, he said that under the country's system of governance, the CA can reject any appointee whether or not he or she has cases in the Office of the Ombudsman or in the Sandiganbayan. He added that even if 10 or 100 cases have been filed against the appointee, if the CA in its judgment believes in his/her competence, qualification and fitness, he/she is deemed fit.

To Senator Zubiri's contention that cases before the Office of the Ombudsman or before the Sandiganbayan were filed because there was probable cause, Senator Drilon said that he would not simply submit and allow the judgment of the Ombudsman to overrule the judgment of the 24-man CA. He added that whether the appointee is fit and qualified to hold the post is a judgment of the elected representatives of the people and not of the Ombudsman.

Asked whether cases filed against the appointees by the Commission on Audit (COA), for instance, involving graft and corrupt practices, exert some

weight on the decision of the CA members, Senator Drilon said that while it might have some effect, he still would not allow the COA's judgment to take the place of the judgment of the CA. He maintained that regardless of the findings of the other agencies, the power to judge the fitness and qualification of an appointee rests with the CA.

Senator Zubiri reiterated his appeal to the President to be circumspect in appointing people to government posts in light of reports that some of the politicians who were jockeying for position have pending cases in courts. He clarified that he was merely appealing to the President and to the CA to select people without cases, especially involving moral turpitude.

Asked by Senator Drilon whether the same standard should be required of the electorate who chose their representatives, Senator Zubiri replied that the people decide the fate of the candidates come election day. He lamented the fact that previous administrations have stubbornly held on to the appointments despite warnings by the legislature.

Senator Drilon disagreed to Senator Zubiri's proposition that if the President made the appointments without heeding the warnings, he would not be true to his platform "*Matuwid na Daan*," saying that it was mere speculation and passing judgment ahead of time. Besides, he said, there are constitutional processes to correct abuses in appointments.

On a final note, Senator Zubiri stressed that the Cabinet secretary, as the alter ego of the President, must have unquestionable integrity, character and background.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Sotto, there being no objection, the Chair referred the speech of Senator Zubiri and the interpellations thereon to the Committee on Civil Service and Government Reorganization.

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 23 on Senate Bill No. 2748 from the Calendar for Ordinary Business to the Calendar for Special Orders.

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**COMMITTEE REPORT NO. 23
ON SENATE BILL NO. 2748**

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2748 (Committee Report No. 23), entitled

AN ACT REQUIRING ALL CONCERNED GOVERNMENT AGENCIES TO ENSURE THE RELEASE OF THE RETIREMENT PAY, PENSIONS, GRATUITIES AND OTHER BENEFITS OF RETIRING GOVERNMENT EMPLOYEES WITHIN A PERIOD OF THIRTY (30) DAYS AFTER HIS OR HER ACTUAL DATE OF RETIREMENT.

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 bill was read without prejudice to the insertion of its full text into the Record of the Senate.

Thereupon, the Chair recognized Senator Trillanes for the sponsorship.

**SPONSORSHIP SPEECH
OF SENATOR TRILLANES**

In his presentation of Senate Bill No. 2748 for plenary deliberation, Senator Trillanes delivered the following speech:

After consultation with various stakeholders, your Committee and the Committee on Government Corporations and Public Enterprises, to which Senate Bill No. 251, introduced by this Representation was referred, have the honor to report it back to this august Chamber with the recommendation that Senate Bill No. 2748 be approved in substitution of Senate Bill No. 251, with this Representation and Senator Recto as authors thereof.

The government is the largest employer in the country, with some 1.3 million employees as of the second quarter of 2010. Sadly, it is sometimes referred to as the employer of last resort due to uncompetitive pay schedule and minimal promotion opportunities compared with the private sector. *Ang sabi nga po nila, ang magtrabaho sa gobyerno ay isang tunay na sakripisyo dahil po sa mababang sahod at salat na benepisyo.*

Despite this, our colleagues in the government service soldier on, toiling and laboring with salaries and benefits barely enough to meet their personal and family needs. They spend the best and most productive years of their lives serving the public and the country despite the Spartan pay and measly benefits they receive, often foregoing more lucrative opportunities in the private sector.

A classic example of these public servants are our public school teachers.

We extol them as the molders of our youth, in whose hands lay the future of our country. We rely upon them to serve during elections, often with great risks to their lives and well-being. And yet, we pay them a salary barely enough to meet the basic needs of their families.

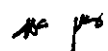
The tragedy is that often times when these public servants retire, they are made to wait for unreasonable periods, sometimes years, before they are paid their modest retirement pay, pensions, gratuities and other benefits.

In short, after sacrificing for decades serving the government and the public, they are again made to sacrifice even more and to wait for benefits which are actually due them under the law.

Unfortunately, the tragic stories of our public servants being made to wait for many months, even years before they are paid their retirement benefits, are not just isolated cases. We have been hearing these persistent complaints in the media and other public forums.

Needless to state, this situation is unacceptable. In recognition of their many years, if not decades of faithful, loyal and dedicated service to the government, the least we can do is to ensure that retiring government employees will receive their retirement pay, pensions, gratuities and other retirement benefits immediately or at least within a fixed and reasonable time after their retirement. They should not be made to wait, much less grovel and beg, for what is actually due them under the law.

The truth is that the current state of the law, particularly the GSIS law, actually provides for the timely release of the retirement benefits of retiring government employees. Section 49 of Republic Act 8291 or the Government Service Insurance System Act of 1997 provides for the "release of retirement benefits to the employee on his/her last day of service in the government: *Provided*, that all requirements are submitted to the GSIS within a reasonable period prior to the effective date of the retirement."



Unfortunately, often times legal provisions mandating the timely release of the retirement pay, pensions, gratuities and other benefits of retiring government employees are not complied with and could be conveniently disregarded due to lack of penal provisions punishing the erring officials for noncompliance.

This is what our measure aims to address.

Thus, Your Committee recognizes the need to address this issue by ensuring the timely release of retirement pensions, gratuities, and other retirement benefits of all government employees, including those in government-owned and -controlled corporations, under the compulsory and optional retirement by providing the aggrieved retiring employees the remedy of seeking administrative redress in case of unreasonable delay in the release of their benefits.

This bill aims to do this by: *First*, mandating the release of the said benefits within a period of 30 days after the employee's actual date of retirement; provided that all requirements are submitted to the concerned government agency at least 30 days prior the effective date of retirement.

During your Committee's hearings, consultations and technical working group meeting with the stakeholders, representatives of the GSIS admitted that they can actually process and release the benefits of retiring government employees in less than 15 days upon retirement, provided that all requirements are submitted prior to the retirement day. However, the GSIS requested the Committee to provide for a 30-day period because according to them, this is the benchmark of the Singapore government in releasing retirement benefits, which is also the benchmark in other countries.

It shall be the responsibility of the head of the government agency concerned, the president and other responsible officers of the Government Service Insurance System (GSIS), the president and other responsible officers of the Home Development Fund (Pag-IBIG Fund), and/or the secretary and other responsible officers of the Department of Budget and Management (DBM), to ensure the implementation of this provision.

In cases where the retiring government employees have pending cases and whose retirement benefits are being lawfully withheld due to possible pecuniary liability, the head of the agency where such case is pending shall ensure that the said case shall be terminated and/or resolved within a period of six months

from the date of the retirement of the concerned employee; *Provided*, That in case the concerned agency fails to terminate and/or resolve the case within the said period without any justifiable reason, the retirement benefits due to the employee shall be immediately released to him without prejudice to the ultimate resolution of the case, except when the delay is deliberately caused by the retiring employee.

Second, the substitute bill seeks to provide penalties for the unjustified failure and/or refusal to release the pension, gratuities and other retirement benefits due to a retiring government employee within the periods prescribed, or to comply with any provisions of this measure. These erring officers, after hearings and due proceedings, shall be subject to administrative disciplinary action and be penalized with suspension from the service without pay from six months to one year, at the discretion of the disciplining authority, except in cases of *force majeure* and other insuperable causes.

In such cases, the thirty (30)-day period shall be counted from the time such cause or causes cease to exist.

Today, I humbly submit this proposed legislative measure for the consideration of our colleagues – with that basic aim of recognizing the heroism and sacrifices of our government employees who, I think, are the unsung heroes of this nation.

To reiterate, your Committee believes that public officers and employees who have spent the best years of their lives serving the government and the public should not be made to unreasonably wait and suffer unexplainable delay in the release of benefits which are due them under the law. It is through their comfortable and secured retirement that government employees can enjoy the fruits of their noble service to the government. And we can make this happen if we will ensure that, apart from guaranteeing that they will be receiving reasonable retirement benefits, they will also be receiving these benefits on time and without the indignity of having to wait and beg for the release of the same.

In view of the foregoing, I urge this august Body to support the passage of this measure.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2748

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

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SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 30 on Senate Bill No. 2796 from the Calendar for Ordinary Business to the Calendar for Special Orders.

**COMMITTEE REPORT NO. 30
ON SENATE BILL NO. 2796**

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2796 (Committee Report No. 30), entitled

**AN ACT DEFINING CYBERCRIME,
PROVIDING FOR PREVENTION,
INVESTIGATION AND IMPOSITION
OF PENALTIES THEREFOR AND
FOR OTHER PURPOSES.**

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 bill was read without prejudice to the insertion of its full text into the Record of the Senate.

Thereupon, the Chair recognized Senator Angara for the, sponsorship.

**SPONSORSHIP SPEECH
OF SENATOR ANGARA**

In presenting Senate Bill No. 2796 for plenary deliberation, Senator Angara delivered the following speech:

QUASHING CYBERCRIME

The Philippines gained notoriety in May 2000 when one of the most destructive computer viruses of all time was traced to a then 23-year-old computer science dropout in Manila. In just one day, that virus spread to 55 million computers around the world and wreaked havoc to software businesses worth US\$10 billion.

But there was another cause for notoriety. While investigators were able to arrest Onel de Guzman, the alleged creator of the computer worm, he could not be prosecuted because at that time we still had no law governing malware and related activities. In short, we were unable to bring to justice a wrongdoer who caused

incalculable harm to millions of people and companies around the world.

We tried to remedy the situation. In July 2000, we enacted the E-Commerce Law to protect electronic transactions. Eleven years have passed—and that is a lot of time, in the internet age, more than enough time for new threats and dangers to have emerged in the Internet. The rapid rate of technological development has outpaced our capacity to effectively police a borderless realm.

Rampant cybercrime

The Internet was born in the early '60s. But it is only in late '90s that the necessary implementing regulations were drawn up.

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

Today, the Internet is an indispensable tool, having revolutionized the way we learn, the way we interact, the way we govern and manage businesses, the way we even entertain ourselves. It has liberated communication and different kinds of transactions from constraints of time and geography. Those are examples of the Internet usage.

This freedom, however, comes with a cost. Internet usage – as well as abuse – has skyrocketed in the absence of any appropriate legal framework.

The ubiquity of the Internet has given rise to the proliferation of cybercrime – which spans hacking, identity theft, spamming, phishing, denial-of-service (“DoS”) attacks, malware, and child pornography and cyber prostitution. This can be attributed to the inherent lack of security of the Internet architecture and the relative anonymity of users.

The cybercrime industry has grown so huge. It is estimated that it has cost almost \$1 trillion losses from intellectual property and data theft in one year alone, in 2008. That is almost three years ago. We can imagine the tremendous increase in losses since then.

Various studies show how extensive cybercrime’s reach is. IBM, in its latest report released in March, said that 2010 had the largest number of vulnerability disclosures. This means attacks on computer networks throughout the computer world. This has significant implications on managing large IT networks. More vulnerabilities mean more time spent on fixing and

securing compromised systems. IBM added that financial institutions are the favorite of phishing, or attempts to acquire sensitive information by pretending to be a credible entity.

Furthermore, the U.S. Internet Crime Complaint Center (ICCC) disclosed that it received in 2010 the second highest number of complaints since its inception about ten years ago. Complaints totaled 303,809 and averaged 25,317 per month.

Just last month, the consumer electronics giant Sony suffered two massive security breaches. First, it discovered that the Playstation Network was hacked which resulted in the theft of personal information including credit card details of approximately 77 million users worldwide. Subsequently, they also found out that the second attack occurred and the target was their online entertainment PC games network, and data from another 25 million accounts have been stolen.

Symantec, a leading security software firm, revealed in its report that nearly two-thirds or 65 percent of adults globally have been a victim of cybercrime. In our country, about 87 percent of Filipinos have fallen to a variety of attacks including malware invasion, online or phishing scams and "sexual predation."

There are approximately 30 million Filipinos who use the Internet regularly. Undetected cybercrime attacks translate to an average loss over 28 days of about P12,208. Each one does not realize he or she is losing P12,000 over a period of 28 days as a result of cybercrime. As Internet penetration deepens, the potential market for cybercrime will naturally enlarge and expand.

Gaps to fill

Cybercrime is a sinister and a silent epidemic. People are aware that it is happening or have even experienced it but are often uncertain and baffled how to deal with it. Which agency in government should cybercrime victims report to—the police, the NBI, the DTI or the bank and the online seller? Who do we really turn to if a cybercrime has been committed against us?

At bottom, we lack the framework that adequately defines cybercrime and prescribes punishment for it. The United Nations Country Report on Cybercrime in the Philippines notes that our E-Commerce Law is inadequate to deal with all forms of cybercrime enumerated in the Budapest Convention on Cybercrime such as fraud and pornography.

But apart from the issue of definition, enforcement also poses a great challenge. Cybercrime requires the proper technical training of law enforcers in identifying intangible evidence of its commission.

Cyber law is more complicated than traditional law for very obvious reasons because it is based on technology. Hence, we need a law that can satisfactorily respond to such a dynamic and fast-growing threat.

Filling the void

The Act that we are proposing will fill that legislative void. It will punish the following: offenses against the confidentiality, integrity and availability of computer data and systems; computer-related offenses such as forgery and fraud; and content-related offenses like cybersex, child pornography and unsolicited commercial communications.

The Cybercrime Prevention Act also covers mobile devices—an emerging target of cyber threats. IBM, for instance, noted that related attacks are still limited because mobile devices do not yet provide the same financial opportunities as personal computer machines. But when e-commerce on our mobile phones gets bigger every year, so will cybercrime threats to mobile devices.

We need to hold liable not only individual perpetrators but also corporate organizations that knowingly abet cybercrime.

In closing, I cannot overemphasize one fundamental principle: that the prevention of cybercrime is not a one-man or one-country phenomenon. It requires international collaboration. We, alone, cannot prevent the commission of cybercrime. Cybercrime recognizes no national boundaries and therefore cooperation with other countries is essential to the enforcement of any Cybercrime Act.

Cybercrime poses a real and present danger to global efforts to foster a global information economy. We must not let this silent epidemic continue to wreck havoc on our people. Five hundred thousand or half a million people work in the BPO sector. The BPO is under threat because of the lack of legal framework for controlling cybercrime.

COSPONSORSHIP REMARKS OF SENATOR LEGARDA

Rising to cosponsor the measure, Senator Legarda pointed out that with the advancement in the

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Internet and other technological media allowing communication to cross geographic and national borders in a matter of seconds, everything is now reachable with a click of a button. She stated that computers have evolved into a versatile instrument in modern society, noting that networks of computers have become essential in maintaining and operating a vital infrastructure. The use of computers, she said, in accessing the Internet enabled linkages among individuals and organizations in doing business.

However, she stated that as the information and communications technology rapidly developed, new forms of criminal activities have emerged. Most of these technological advancement, she said, have been utilized by unscrupulous individuals for illegal activities such as computer-related fraud, cybersex and child pornography. Fortunately, she said, the Senate will take action on cybercrimes through the measure to address the need to provide a policy framework, define the covered crimes and the penalties to be imposed thereon.

In closing, Senator Legarda expressed hope that the positive action of the Senate on the measure will ensure a safe cyberspace for the people.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2796

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

ADDITIONAL REFERENCE OF BUSINESS

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

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

Letter from the Secretary General of the House of Representatives, informing the Senate that on 9 May 2011, the House of Representatives reconsidered the approval on Third Reading of House Bill No. 253, entitled

**AN ACT PROVIDING FOR THE
UPGRADE AND MODERNIZATION
OF THE J.R. BORJA CITY**

**MEMORIAL HOSPITAL AS AN
EXTENSION HOSPITAL OF THE
NORTHERN MINDANAO MEDICAL
CENTER (NMMC) IN CAGAYAN DE
ORO CITY, PROVINCE OF MISAMIS
ORIENTAL AND APPROPRIATING
FUNDS THEREFOR,**

and requested that the said bill be transmitted back to the House of Representatives.

To the Committees on Health and Demography; and Finance

Letter from the Secretary General of the House of Representatives, informing the Senate that on 9 May 2011, the House of Representatives requested for a conference and has designated Representatives Abaya (J.E.), Gonzales II (N.), Limkaichong (J.), Acop (R.), Yap (S.), Abad (H.), Gunigundo I (M.), Lagman (E.) and Suarez (D.) as its conferees to the Bicameral Conference Committee on the disagreeing provisions of House Bill No. 4067 and Senate Bill No. 2640, both 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**

To the Committee on Rules

BILL ON FIRST READING

Senate Bill No. 2813, entitled

**AN ACT AMENDING SECTION 3 OF
PRESIDENTIAL DECREE NO. 1606,
AS AMENDED, OR THE LAW
CREATING THE SANDIGANBAYAN**

Introduced by Senator Escudero

To the Committee on Justice and Human Rights

RESOLUTIONS

Proposed Senate Resolution No. 461, entitled

RESOLUTION URGING THE COMMITTEES ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES; PUBLIC ORDER AND DANGEROUS DRUGS; AND ECONOMIC AFFAIRS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED HIGH NUMBER OF CURRENCY TRANSACTIONS INVOLVING SIGNIFICANT AMOUNTS OF PROCEEDS FROM INTERNATIONAL NARCOTICS TRAFFICKING VIS-À-VIS THE IMPLEMENTATION OF ANTI-MONEY LAUNDERING ACT IN THE COUNTRY WITH THE INTENTION OF UPDATING THE RELEVANT LAWS AND PREVENTING THE CIRCULATION OF NARCOTICS MONEY

Introduced by Senator Villar

To the Committees on Banks, Financial Institutions and Currencies; and Public Order and Dangerous Drugs

Proposed Senate Resolution No. 462, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON LABOR, EMPLOYMENT AND HUMAN RESOURCES DEVELOPMENT AND OTHER APPROPRIATE COMMITTEES TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, ON REPORTS THAT SOME LICENSED RECRUITMENT AGENCIES WITHHOLD THE PASSPORTS OF JOB APPLICANTS WHILE THEIR DEPLOYMENT PAPERS ARE BEING PROCESSED

Introduced by Senator Villar

To the Committee on Labor, Employment and Human Resources Development

Proposed Senate Resolution No. 463, entitled

RESOLUTION EXPRESSING THE

PROFOUND CONDOLENCE OF THE MEMBERS OF THE PHILIPPINE SENATE ON THE DEATH OF HONORABLE JUSTICE LEONOR INES LUCIANO, MEMBER OF THE NINTH AND TENTH CONGRESS, JURIST, WOMEN'S RIGHTS LEADER AND HUMANITARIAN

Introduced by Senator Guingona III

To the Committee on Rules

COMMITTEE REPORT

Committee Report No. 35, prepared and submitted jointly by the Committees on Cultural Communities; and Social Justice, Welfare and Rural Development, on Senate Bill No. 2814, with Senators Trillanes IV, Villar, Legarda and Pangilinan as authors thereof, entitled

AN ACT PROHIBITING ETHNIC, RACIAL OR RELIGIOUS PROFILING AS WELL AS DISCRIMINATION AGAINST PERSONS ON ACCOUNT OF ETHNIC OR RACIAL ORIGIN AND/OR RELIGIOUS AFFILIATION OR BELIEF,

recommending its approval in substitution of Senate Bill Nos. 19, 1213, and 1342.

Sponsors: Senators Legarda, Pangilinan, Trillanes IV and Villar

To the Calendar for Ordinary Business

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 35 on Senate Bill No. 2814 from the Calendar for Ordinary Business to the Calendar for Special Orders.

**COMMITTEE REPORT NO. 35
ON SENATE BILL NO. 2814**

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2814 (Committee Report No. 35), entitled

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**AN ACT PROHIBITING ETHNIC,
RACIAL OR RELIGIOUS PROFILING
AS WELL AS DISCRIMINATION
AGAINST PERSONS ON ACCOUNT
OF ETHNIC OR RACIAL ORIGIN
AND/OR RELIGIOUS AFFILIATION
OR BELIEF.**

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 bill was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Legarda for the sponsorship.

**SPONSORSHIP SPEECH
OF SENATOR LEGARDA**

In presenting Senate Bill No. 2814 for plenary deliberation, Senator Legarda delivered the following speech:

ANTI-DISCRIMINATION ACT OF 2011

Discrimination exists in our society. This is a statement we can either refute—if we want to keep on turning a blind eye to this form of injustice; or accept—if we are to face the reality, thus, the Anti-Discrimination bill that I am putting forward for this Chamber’s unanimous support.

From January 2009 to April 2011, 90 cases of discrimination were filed with the Commission on Human Rights, 71% (or 64 cases) of which came from Mindanao, home to approximately 63% or approximately nine million of our indigenous peoples population.

This number may seem insignificant if we are to consider that there are more than 90 million citizens in this country. But one has to take note that these are the reported cases. A person who was subjected to discrimination may not have the strength to file a case and would likely keep it to himself rather than endure the same feeling of humiliation while narrating his experience to the authorities. Victims of discrimination would simply nurture the pain in their hearts as it gradually transforms them into individuals who are afraid to fight for their rights, uncertain of their own capabilities and of what they can achieve in life.

No less than our Constitution states that, “No person shall be deprived of life, liberty, or

property without due process of law, nor shall any person be denied the equal protection of the laws.” It specifically provides that the State has the mandate to protect any person—an all-encompassing term that applies equally to all human beings, regardless of their racial, ethnic or religious affiliation.

When we entered into an international commitment to end racial discrimination with the ratification of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD), we have also made this Convention a part of the law of the land. Our country is also a member of the United Nations General Assembly, which has passed: (1) the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief; (2) the 1993 UN GA Resolution on Elimination of All Forms of Religious Intolerance; and 3) The Declaration on the Rights of Indigenous Peoples—all of which provide for nondiscrimination based on race, ethnicity, social origin or religious belief.

Despite these, we remain a nation that throws all forms of bias and prejudice at those who we perceive to be “different” from the majority.

It is even more alarming that the Philippine government, in its 20th Periodic Report to the Convention on the Elimination of all Forms of Racial Discrimination (CERD) in 2008, has made an official stand that, “Racial discrimination is alien to the prevailing mores and culture of the Filipino People” and that, “Racial discrimination has never officially or factually existed in the Philippines, neither in a systemic nor formal nor intermittent nor isolated manner” because “Filipinos have essentially the same racial and ethnic origins.”

As response to the Philippine Government’s 15th-20th ICERD Periodic Report, a broad alliance of indigenous peoples organizations and support groups submitted a consolidated “Indigenous Peoples of the Philippines ICERD Shadow Report” to the Committee on the Elimination of All Forms of Racial Discrimination in 2009. It cited incidences of militarization, enforced disappearances, harassment, and extra-judicial killings, which have led to discrimination against the right to security of persons, right against illegal searches and seizures, right to protection by the State, and right against torture and cruel, inhumane and degrading treatment.

A Pulse Asia Survey in 2005, which was incorporated in the 2005 Philippine Human Development Report of the United Nations

Development Programme (UNDP), also revealed that 55% of Filipinos think that Muslims are prone to run *amok*. Forty-seven percent believe that Muslims are terrorists or extremists and that 44% think that Muslims harbor hatred towards non-Muslims. What is sad about these numbers is that these beliefs persist, despite the fact that of the 1,200 respondents in the survey, only 14% could cite firsthand encounters with Muslims.

A 2009 story from a news magazine also narrated how Muslim nursing students in a university in Zamboanga City were asked to wear the standard short-sleeved white dress, thereby exposing more skin and were prohibited from putting on their sacred veil or the "*hijab*"—a school policy that is directly against their religious belief.

These realities demonstrate to us that the socialization of our people via education and other sources like media, our peer groups, or even the church, has not been successful in inculcating the view that we are all equal as species of the *homo sapiens*. The Human Genome Researches which are mapping the human DNA have equally demonstrated that if we peel off our differently colored skin—whether black, white, yellow or violet—we are all the same underneath. In fact, we would be hard-pressed to find an empirical reference for the word "race."

The underpinning of any form of discrimination is the social construction of "race"—a word used to render other people, groups and other collectives, even nations, as inferior and not having the qualities that will enable them to participate actively in any endeavor. Race is a concept used to isolate and render powerless collectivities by ascribing to them attributes which cannot be defended. Race makes the airport personnel pick out from a crowd for more body searches and frisking those who are bearded or wearing the *hijab*. Race will direct, many times subconsciously, to that airport personnel not to pick out for frisking the one wearing a tie, a woman wearing a suit with pearls or one carrying a Louis Vuitton bag. Race is subject to one's own interpretation which cannot be defended on any ground and thus, needs to be eliminated in all its varied manifestations.

But before we eliminate it, its existence has to be acknowledged. Sadly, the government's stand on the nonexistence of racial or ethnic discrimination clearly underscores the reality in society—that discrimination is not acknowledged, is not even given a face, despite the glaring fact

that it exists in many places in our country and it actually occurs on a regular basis.

But even with such a denial, we have a myriad of laws that seek to address the issue of discrimination and racial profiling. These are scattered in different pieces of legislation—some in the Revised Penal Code, the Civil Code, the Labor Code, and special laws—leading to disjointed and weak policies as well as difficulty in implementation.

Our Committee is submitting for the Body's consideration, the "Act Prohibiting Ethnic, Racial or Religious Profiling as well as Discrimination Against Persons on Account of Ethnic or Racial Origin and/or Religious Affiliation or Belief."

This proposed legislation seeks to promote a society that values the dignity of every human person and guarantees full respect for human rights, regardless of race, religion or ethnicity. It seeks to fulfill our international commitment under the ICERD, to ensure its full application in our national legal system through the creation of a comprehensive anti-discrimination law with substantial penal provisions.

Allow me to enumerate its key features:

The "Anti-Discrimination Act of 2011" shall penalize acts of discrimination in the following fields: employment, education, delivery of goods, facilities and services, accommodation, transportation, media, and in search and investigatory activities.

Any person, group, institution or company, both public and private, including those who request, induce, encourage and authorize or assist others to commit acts of discrimination or profiling, will be held liable for the penalties provided under this bill.

To give teeth to this measure, a person who is found guilty, —for instance, a media personality who uses the name of an ethnic group in a joke for a television program—shall serve between nine months and 12 years in prison, and/or will be obliged to pay between Php100,000 and Php500,000.

We want a serious campaign against all forms of racial and religious discrimination through this measure.

Thus, to ensure compliance with this Act, agencies, corporations, companies and educational institutions, whether private or public, shall be mandated to create an Equal Opportunity Committee, which shall have administrative jurisdiction over cases involving discrimination and racial profiling.



The Commission on Human Rights (CHR) as lead institution, in coordination with the Department of Labor and Employment (DOLE), the Department of Education (DepEd), the Department of Health (DOH), the National Commission on Indigenous Peoples (NCIP), the National Commission on Muslim Filipinos (NCMF), the Civil Service Commission (CSC), and Department of Trade and Industry (DTI), shall have the duty of preventing or deterring the commission of acts of discrimination and racial profiling and will provide for the procedures for the resolution, settlement, or prosecution of acts of discrimination and racial profiling as well as the creation of Equal Opportunity Committees in every agency, corporation, education institution within their jurisdictions.

We need to acknowledge that discrimination exists before we can eliminate it for we cannot eradicate something that is considered a ghost by others.

We need an effective and comprehensive legal framework if we are to start the fight against discrimination and racial profiling.

We also have the gargantuan task of harmonizing our policies, building capacities of agencies, and strengthening enforcement and prosecution.

We must strive to transform our society into an open-minded and sensitive community where no child is subjected to name-calling because of his distinct looks; we must build a nation where each individual's beliefs and principles are respected and everyone is given equal opportunity to achieve his full potential as a person and as a Filipino citizen.

It is on this score that I call on the support of my colleagues in this august Chamber for the measure I am sponsoring to provide a lasting and effective solution to the prevalent plague of discrimination.

In the course of Senator Legarda's speech, Senator Zubiri relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2814

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

COMMITTEE MEMBERSHIPS

Nominated by Senator Sotto, on behalf of the Majority, there being no objection, Senator Lacson was elected member of the committees hereunder indicated:

- Committee on Agriculture and Food;
- Committee on Games, Amusement and Sports;
- Committee on Finance; and
- Committee on Local Government.

COAUTHORS

Senator Sotto manifested that the following senators are coauthors of the bills hereunder indicated:


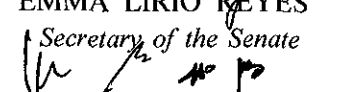
1. Senator Villar
– Senate Bill No. 2620
2. Senator Cayetano (A)
– Senate Bill No. 2620
3. Senator Revilla
– Senate Bill Nos. 2802 and 2620
4. Senator Legarda
– Senate Bill No. 2796
5. Senator Lapid
– Senate Bill Nos. 2757, 2746, 2747
and 3826

ADJOURNMENT OF SESSION

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 Monday, May 16, 2011.

It was 4:53 p.m.

I hereby certify to the correctness of the foregoing.


EMMA LIRIO REYES
Secretary of the Senate


Approved on May 16, 2011