



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 39

Wednesday, December 11, 2013

**SIXTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 39
Wednesday, December 11, 2013

CALL TO ORDER

At 3:14 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

SUSPENSION OF SESSION

With permission of the Body, the Chair suspended the session.

It was 3:15 p.m.

RESUMPTION OF SESSION

At 3:15 p.m., the session was resumed.

PRAYER

Sen. Ferdinand R. Marcos Jr. led the prayer, to wit:

Father God:

In these past months and weeks, our beloved country has been plagued by unprecedented calamities, a series of typhoons, a killer earthquake and a catastrophic super typhoon and storm surge, all resulting in the unimaginable loss of life and limb, of public infrastructure, of essential agricultural crops and traditional sources of livelihood of our people.

In a microcosm, the very halls of our institution, the Senate of the Republic of the Philippines, have reverberated with unprecedented storms of thunderous proportions, continuing charges of alleged transgressions against our shared code of ethics, of serious accusations hitting the very core of the integrity of our very own colleagues, and undermining the dignity of our once highly revered deliberative assembly.

Our Father Almighty, as we approach again the commemoration of the holy birth of Your Son, the Messiah whom You sent to save the world and mankind from perdition, we come to You in humble supplication to pour upon us the blessings of Your powerful hands to spare our country and people from further devastation and incessant hardships. Please help our suffering people to quickly rebuild their minds and their hearts and that of their families as well as to recoup their material possessions.

Please guide our nation in its urgent task of rehabilitation and reconstruction. And we humbly ask You, Almighty God to save our house, the Senate, the very institution we are committed to serve, on behalf of our people who placed us in this office, from further decay and destruction.

Our dear God and Father, please inspire our legislative leaders so that they may fulfill

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the very essence of their role to steer our Chamber and its Members back to the tenets of its parliamentary responsibilities so that our role in nation-building will once again find its true meaning and value.

All these we humbly ask You, our Father, in the power and mighty Name of Your Son, Jesus Christ.

Amen.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Atty. Oscar G. Yabes, called the roll, to which the following senators responded:

Angara, S.	Honasan, G. B.
Aquino, P. B. IV B.	Lapid, M. L. M.
Binay, M. L. N. S.	Legarda, L.
Drilon, F. M.	Marcos Jr., F. R.
Ejercito, J. V. G.	Osmeña III, S. R.
Enrile, J. P.	Poe, G.
Escudero, F. J. G.	Sotto III, V. C.
Estrada, J.	Villar, C. A.

With 16 senators present, the Chair declared the presence of a quorum.

Senators Recto and Trillanes arrived after the roll call.

Senators Cayetano (A), Guingona and Pimentel were on official mission.

Senator Cayetano (P) was on official mission abroad.

Senator Defensor Santiago was on sick leave.

Senator Revilla was absent.

APPROVAL OF THE JOURNAL

Upon motion of Senator Aquino, there being no objection, the Body dispensed with the reading of the Journal of Session No. 38 (December 10, 2013) and considered it approved.

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 House of Representatives, informing the Senate that on 9 December 2013, the House of Representatives concurred with the amendments of the Senate on House Bill No. 3423, entitled

AN ACT APPROPRIATING THE SUM OF FOURTEEN BILLION SIX HUNDRED MILLION PESOS (P14,600,000,000.00) AS SUPPLEMENTAL APPROPRIATIONS FOR FY 2013 AND FOR OTHER PURPOSES.

To the Archives

Letter from the House of Representatives, informing the Senate that on 9 December 2013, the House of Representatives approved the Conference Committee Report on the disagreeing votes of House Joint Resolution No. 7, entitled

JOINT RESOLUTION EXTENDING THE VALIDITY OF APPROPRIATIONS UNDER THE CALAMITY FUND AND QUICK RESPONSE FUND, INCLUDING THOSE SOURCED FROM SAVINGS REALIGNED IN THE CURRENT YEAR, AS WELL AS ALL UNOBLIGATED ALLOTMENTS AND UNRELEASED APPROPRIATIONS FOR MAINTENANCE AND OTHER OPERATING EXPENSES AND CAPITAL OUTLAYS UNDER REPUBLIC ACT NO. 10352 OR THE FY 2013 GENERAL APPROPRIATIONS ACT UNTIL DECEMBER 31, 2014, AMENDING FOR THE PURPOSE SECTION 63 OF THE GENERAL PROVISIONS THEREIN.

To the Archives

RESOLUTION

Proposed Senate Resolution No. 413, entitled

RESOLUTION URGING THAT A STUDY BE UNDERTAKEN BY THE NATIONAL GOVERNMENT FOR THE BACKING UP AND STORING/

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**ARCHIVING OF GOVERNMENT
RECORDS AND FILES TO AVOID
LOSS AND DESTRUCTION IN
TIMES OF NATURAL CALAMITIES
AND CATASTROPHES**

Introduced by Senator Grace Poe

**To the Committees on Science and Tech-
nology; and Civil Service and Government
Reorganization**

**ACKNOWLEDGMENT
OF THE PRESENCE OF GUESTS**

At this juncture, Senator Aquino acknowledged the presence in the gallery of students from the De La Salle University, College of Law; *Pamantasan ng Lungsod ng Muntinlupa* headed by Ms. Girlie Sevilla; and the Calamba Doctors College headed by Ms. Annaliza Gando.

Senate President Drilon welcomed the guests to the Senate.

SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

It was 3:21 p.m.

RESUMPTION OF SESSION

At 3:22 p.m., the session was resumed.

**CONFERENCE COMMITTEE REPORT
ON HOUSE BILL NO. 2630**

Upon motion of Senator Aquino, there being no objection, the Body considered the Conference Committee Report on the disagreeing votes on House Bill No. 2630, entitled

**AN ACT APPROPRIATING FUNDS FOR
THE OPERATION OF THE GOVERN-
MENT OF THE REPUBLIC OF THE
PHILIPPINES FROM JANUARY ONE
TO DECEMBER THIRTY-ONE, TWO
THOUSAND AND FOURTEEN, AND
FOR OTHER PURPOSES.**

The Chair recognized Senator Escudero to sponsor the report.

**SPONSORSHIP REMARKS
OF SENATOR ESCUDERO**

Senator Escudero reported that during the bicameral conference committee, the House conferees adopted the proposed amendments contained in the Senate version, and likewise proposed minor amendments mostly involving the increase in the budget of the House of Representatives, primarily to restore it to the 2013 levels and to cover the costs of additional members as well as the creation of additional oversight committees.

He requested the Body to approve the bicameral conference committee report.

**APPROVAL OF THE CONFERENCE
COMMITTEE REPORT**

Submitted to a vote, there being no objection, the Conference Committee Report on the disagreeing votes on House Bill No. 2630 was approved by the Body.

SUSPENSION OF SESSION

Upon motion of Senator Aquino, the session was suspended to allow the senators to greet Senator Osmeña who will be celebrating his birthday on December 13, 2013.

It was 3:25 p.m.

RESUMPTION OF SESSION

At 3:27 p.m., the session was resumed.

**PRIVILEGE SPEECH
OF SENATOR EJERCITO**

Availing himself of the privilege hour, Senator Ejercito delivered the following speech:

150TH BONIFACIO BIRTH ANNIVERSARY

Noong nakaraang buwan, ipinagdiwang natin ang ika-isandaan at limampung anibersaryo ng kapanganakan ni Gat. Andres Bonifacio, isang pagdiriwang upang kilalanin ang kanyang dakilang ambag at pag-aalay para sa bayan. Si Gat Andres ang ama ng

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Katipunan, Sagisag ng Katapangan, Ama ng Rebolusyon, Pangulo ng Bayang Katagalugan noong panahon ng himagsikan.

Kilala natin si Andres Bonifacio bilang pinuno ng Katipunan at nagsulong ng himagsikan laban sa kolonyalistang Espanyol na sinimulan noong 1896 sa bayan ng San Juan del Monte, at nakilala ito bilang Pinaglabanan. Karamihan sa mga teksto ng libro na pinagaaralan ng kabataan, naiuugnay lamang si Bonifacio sa Katipunan at sa himagsikan. Maliban dito, nakalulungkot man pong sabihin, wala na tayong pagkakakilala kay Bonifacio.

Maraming mga monumento at kalsada na ipinangalan kay Bonifacio sa iba't ibang lugar sa buong bansa. Ngunit si Bonifacio lamang ang walang museo na doon sana ay malalahad ang kanyang buhay at mga nagawa para sa bayan.

Ngunit sino ba sa atin ang tunay na nakakabatid sa pagkatao at kadakilaan ni Bonifacio? Palagay ko po, lahat ng ito ay nakabatay sa palagay, haka-haka o ayon sa mga kuwento, at walang makapagsasabi na ito talaga ang tunay na Andres Bonifacio. Marahil, ang kwento ng kanyang buhay at pakikibaka, ng kanyang kadakilaan at dakilang pag-aalay para sa kalayaan ng Inang Bayan ay kasamang naibaon sa pook kung saan siya inilibing. Walang pangalan. Walang pagkakakilala.

Kung susuriin natin, hindi tulad ng mga bayaning sila Jose Rizal o Heneral Emilio Aguinaldo, wala pong natirang direktang kamag-anak si Andres Bonifacio na makapagpapatunay sa mga ginawa nito para sa ating bayan. Marahil po dahil sila ay tinugis ng kapwa kawal Pilipino noong panahon ng himagsikan at kahit matapos ang rehimen ng kolonyalistang Kastila. Ang pamilya ni Espiridiona na kapatid na babae ni Gat Andres Bonifacio ay nagtago sa Mindoro, si Troadio ay pumunta sa Pransya samantalang nagtago naman ang mga anak ni Procopio at ang iba ay nagpalit ng pangalan at apelyido. Ganyan po kapaît ang dinanas ng pamilyang ito.

Kung si Heneral Aguinaldo ay may bahay sa Kawit, Cavite at si Jose Rizal ay sa Calamba, Laguna, na parehong ginawang mga "shrine," ang bahay sa Tondo ni Bonifacio ay kilala na lamang natin ngayon bilang Tutuban. Kung ang labi ni Rizal ay nasa Luneta at ang kay Aguinaldo ay nasa Kawit, ang kay Bonifacio at kapatid nito ay nasa mga bulubundukin ng Maragondon na hindi pa rin nabigyan ng

maayos na pagpapalilibing. Marami pa ngayon ang nagdududa kung yaong nahukay na buto at dinala sa Pambansang Museo ay yaon nga ang labi ni Gat Andres Bonifacio.

Samakatuwid, makalipas ang isandaan at limampung taon, patuloy pa rin na dumaranas ng panlulupig ang ating bayani. Tingnan lamang po natin ang sitwasyon ng ating bayani.

Dati ay nasa limang piso sa ating pananalapi ang larawan ni Bonifacio sa aking pagkakaalala noong ako ay bata pa. Ngunit makalipas ang ilang taon ay sinama na lamang siya kay Mabini sa sampung pisong papel at sa kasalukuyan ay naging barya na lamang ito.

Noon pong ako ay nasa Kongreso, isinulong ko rin po ang panukala upang isadakila ang kabayanihan ni Gat Andres at nagmungkahi na kilalanin ang Pinaglabanan Shrine bilang Bonifacio Shrine.

Sa San Juan, ang lumang Museo ng Katipunan na dating nakalagay sa mas maliit na lugar ay pinagpagawaan po ng inyong lingkod ng mas malaking museo sa loob ng Pinaglabanan Shrine. Inisip ko pong palakihin ito upang mapagsama natin ang mga dati ng diorama, artifacts at litrato sa mga makabagong teknolohiya ng pagpapakilala sa mga Katipunero. Ito ay isang paraan din upang magunita ang kadakilaan ni Andres Bonifacio at mga Katipunero.

Sa dating Museo ng Katipunan, inilarawan nito ang kasaysayan at pakikibaka ng Katipunan bilang pagkilala sa kanilang sakripisyo at dakilang pag-aalay para sa kalayaan ng Inang Bayan.

Sa bagong Museo ng Katipunan na ngayon ay pinangangasiwaan na ng National Historical Commission of the Philippines, ang Museo po ay nilunod ng computers at interactive gadgets. Naglaho at nawala na ang mga makakulturang pagsasalarawan ng aspeto nito na makikita natin sana sa pamamagitan ng diorama at artifacts.

Ang diorama sa dating museo ay nagsasabuhay sa aktwal na pangyayari noong panahon ng himagsikan.

Wala na po ang makasining na diorama at mahahalagang artifacts. Marahil ito na rin ang dahilan kung bakit kumaunti ang bilang ng mga bumibisita sa Museo ng Katipunan dahil nagmukhang Internet Café na lamang ito. Kung dati rati ay halos isang daang mga bus ang bumibisita sa Museo ng Katipunan, ngayon

po ay masuwerte na kung maka-dalawang bus sa isang linggo.

Mabanggit ko na lang din po, iyon pong bagong Museo ng Katipunan ay galing po sa pondo noong ako ay kinatawan ng lungsod ng San Juan. Sinikap ko pong makapagpatayo ng mas malaking museo bilang ambag sa pagpapayaman ng kasaysayan at pagbibigay pugay sa kabayanihan ng ating mga dakilang martir at bayani. Matapos maitayo ang gusali ng museo ay inilipat na ito sa pamamahala at pangangasiwa ng NHCP.

Mabalik po tayo kay Andres Bonifacio, na tulad ng masang Pilipino, siya po ay pinagkakaitan ng puwang na mapabilang sa hanay ng mga Ilustrado at naghaharing uri. Kaya po sadyang walang dambana at maayos na pagpapakilala dito.

Marahil pumanaw na tayo, pero hindi pa din natatamasa ni Gat Andres ang tunay at wastong pagdadakila sa kanyang kabayanihan. Magpapatuloy po ang ganitong hindi matuwid na kaayusan hanggang ang ating lipunan ay pinamumunuan ng mga naghaharing uri. Mapait man, ito po ang katotohanan dahil hindi papayag ang mga elitista, mga hasendero at mga Ilustrado na mahaluan sila ng mga Indio, ng masa at mga hindi nila kauri.

Pero hindi na po bale. Maski marahil si Bonifacio hindi nito inisip o inakala na mapabilang sa mga Ilustrado at kilalanin. Ang higit na mas mahalaga ay inilaan niya ang kanyang dugo, pawis at buhay para sa ating Inang Bayan, isang pagpapakabayani na hindi naghihintay ng pagkilala o parangal.

Iyan po ang dapat nating higit na sariwain sa naging pagdiriwang ni Andres Bonifacio sa kanyang ika-isandaan at limampung taon na anibersaryo.

Upang bigyan ito ng higit na pagkilala, isadambana na lang po natin si Bonifacio sa ating mga puso at isipan. Higit na mas idadakila natin si Gat Andres kung ating tutularan ang kanyang pag-aalay ng buong lakas, pag-iisip para sa interes at kagalingan ng ating Inang Bayan.

*Mabuhay ang Supremo ng Katipunan!
Mabuhay ang Dakilang Anak ng Bayan!
Mabuhay si Andres Bonifacio!*

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Aquino, there being no

objection, the speech of Senator Ejercito was referred to the Committee on Education, Arts and Culture.

MANIFESTATION OF SENATOR AQUINO

Senator Aquino stated that the Body was supposed to continue the deliberation of Senate Bill No. 1733 (People's Freedom of Information Act of 2013) but Senator Legarda and the other senators have requested that the interpellation be deferred to another date.

SUSPENSION OF SESSION

Upon motion of Senator Aquino, the session was suspended.

It was 3:36 p.m.

RESUMPTION OF SESSION

At 3:45 p.m., the session was resumed.

COMMITTEE REPORT NO. 2 ON SENATE BILL NO. 1733

(Continuation)

Upon motion of Senator Aquino, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1733 (Committee Report No. 2), entitled

**AN ACT IMPLEMENTING THE PEOPLE'S
RIGHT TO INFORMATION AND THE
CONSTITUTIONAL POLICIES OF
FULL PUBLIC DISCLOSURE AND
HONESTY IN THE PUBLIC SERVICE
AND FOR OTHER PURPOSES.**

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

Thereupon, the Chair recognized Senator Poe, sponsor of the measure, and Senator Enrile for his interpellation.

INTERPELLATION OF SENATOR ENRILE

Asked by Senator Enrile on the policy reason for adopting a freedom of information law, Senator Poe replied that the bill seeks to encourage public participation in government decision-making, a vital element in participative democracy, and to guard

against any wrongdoing in the government, for transparency.

Asked on the extent to which the right to information could be limited, Senator Poe explained that the overriding consideration is public interest and that information may be withheld in certain situations enumerated under Section 7, among others, when the national security or internal/external defense of the State is involved; to avoid compromising or interfering in the investigation of a criminal activity; or to preserve trade secrets obtained by privileged communication.

Senator Enrile stated that his understanding of the freedom of information is giving any person the permission to look into matters of great interest. Asked to provide an example of an information that anyone could request, Senator Poe stated that the request could be something as trivial like asking for a copy of x-rated films from 1975 to present, or it could be as complicated like asking for a copy of certain policies that have to do, for instance, with bidding of projects. However, Senator Enrile described such information as minimal because, as he understood it, the essence of the freedom to seek information is precisely to make governance very transparent and the limitations to this freedom must be circumscribed, for instance, by defining the term "national security."

Replying thereto, Senator Poe explained that the information requested could be anything that pertains to public or official acts in government. She cited the definition of "information" under Section 3(a) of the bill as "any record, document, paper, transcripts any data or material recorded and in custody of any government agency concerned pursuant to law, executive order, rules ... in connection with the performance or transaction of official business by any government agency."

On whether an income tax return of a public official is covered by the bill, Senator Poe said that certain information can be requested if there is an overriding public interest. For instance, she said that certain government officials such as the President, Vice-President, members of the Cabinet, Congress and the Supreme Court, Constitutional Commissions and the armed forces with general or flag rank must have their SALNs automatically posted or made available.

Senator Enrile noted that such information is allowed and that there is no prohibition for anyone

to look into the SALN of any public official. He clarified that his question referred to personal information such as an individual's income tax return. Senator Poe explained that while the SALN is a requirement for public officials, the FOI bill seeks to institutionalize the practice of providing this information to the public. She pointed out that while no sanctions are currently being imposed on an agency or institution that does not provide this information upon request aside from those provided under the Revised Penal Code, the FOI bill seeks to set more substantial penalties for such violations.

Asked whether there was a list of information that could be readily obtained by anyone without impediment, Senator Poe replied that there are information made available to the public but are not standardized. For instance, she said that the budget of a particular agency cannot be easily obtained since there are no laws which will prevent the government employee in charge of providing such information from being negligent in his responsibility to do so. She said that the FOI bill will compel the personnel involved to comply with the request for such information and will institutionalize and standardize the process of making these available to the public.

Senator Enrile expressed concern that the bill, which seeks to adopt a general rule in providing such information, might end up being an inutile law because it is possible that the agency that has been granted the power of classification would classify everything as confidential or secret depending upon its predilection to hide it. In reply, Senator Poe said that the FOI bill has set certain safeguards particularly when there is doubt as to whether the information will be provided. Besides, she stated that the courts will always resolve the issue in favor of the right to information, and the bill sets a period of declassification. For instance, she said that if the President or any particular government agency head classifies a document as confidential, a reasonable time frame is given when this document will be made available to the public.

Asked what a "reasonable time" would be, Senator Poe said that the information pertaining to the investigation of a criminal activity could be made available to the public once the investigation has been completed and the perpetrators have been apprehended; in the case of an intelligence operation, the information could be kept secret for as long as the matter has not been resolved. However,

she stated that the FOI measure cannot be used to cover up a crime or wrongdoing as doing so would be punishable under the law.

On whether the concept of "reasonable time" is considered as a limiting period dealing with the prescription of crimes, Senator Poe replied that this is not necessarily limited only to such activities but also covers certain activities. She said that in a situation where revealing an information would jeopardize the Philippine government's bargaining position with another country, the details of a particular agreement or treaty will not be made available to the public until it has been approved. Only then, she said, could the public determine whether the concealment of such a document was done to favor a particular party or for graft purposes.

Senator Enrile pointed out that in criminal cases, all the machineries of government, including the NBI, the police and the Ombudsman, conduct their own investigation to uncover crimes. However, on matters of national interest vis-a-vis the right of the people to know, he warned that unless the bill is crafted carefully, the Executive department, which implements the law passed by Congress, can impede the discovery of irregularities. He recalled that in the past, negotiations with other countries such as those concerning the military bases agreement were opened to the public, except that during the negotiations for the country's accession to the World Trade Organization Agreement, the negotiating panel withheld much information from the public that came out later when the treaty was being implemented, and as a result, several industries and businesses ended up being adversely affected. In such a situation, he asked whether it would be wise to prevent the people from getting information during the negotiation stage precisely so that they can protect their interests in case the government is selling them away or if they should be allowed to look into further than the negotiating time and impose penalties on those individuals who sold out the interest of the country. Senator Poe believed that the public could still go to the court to compel government officials to reveal the information even midway through the negotiations.

Senator Enrile noted that the Department of Foreign Affairs (DFA) was negotiating an agreement with the United States for a rotational visit of American military forces into the Philippines, but the Constitution, he pointed out, prohibits the establishment of military bases in the country. In this situation, he asked which

information could be requested from the DFA during the negotiation stage and which are not allowed. Senator Poe explained that if there is compelling evidence, for instance, national security, certain information would need to be handled carefully. Moreover, she pointed out that Section 72 specifically states that the exceptions are not used to cover up a crime, wrongdoing, graft or corruption. She underscored the importance of putting in place the necessary safety clauses to prevent anyone from taking advantage of the law and she welcomed suggestions from Senator Enrile on how abuse of the law could be prevented.

Asked which information could be made available to the public during the negotiations of an agreement, such as a VFA, Senator Poe replied that while the public is free to make inquiries, it is up to the agency head concerned to determine if there is an overriding public interest to classify such information as confidential, otherwise, he could reveal anything about the treaty.

Senator Enrile noted that if the power to classify information as confidential is given to another authority, it would be possible for that authority to either claim that certain materials have been classified even if this is not the case or classify it immediately as soon as a request for the document has been made and merely antedate the classification. Senator Poe adverted to Section 7(a)(2) which serves as guideline for an agency head to keep a document classified if it will unduly weaken the negotiating position of the government or pose a particular danger to national security such as, in the case of the country's current precarious situation in its diplomatic relations with China. However, Senator Enrile pointed out that in the matter of the Philippines' Mutual Defense Treaty with the United States, the FOI measure would not be necessary since the pact includes penalties for disclosing information that might trigger a war between countries. In reply, Senator Poe said that the FOI bill would strengthen government policies to protect Philippine interests. She stated that the exceptions included in the FOI might be a redundancy in the law but does not contradict it.

Asked by Senator Enrile whether it was proper to ask what kind of equipment American soldiers would bring into the country and how this equipment would be disposed after their exercises under the VFA, Senator Poe stated that if she were the head

of the agency, she should know, and the public should know, the type of equipment to be brought in by the foreign troops, especially if the equipment could endanger the country, like nuclear or chemical weapons, and if the information is denied, the proper court would rule in favor of the requesting party since the general principle is in favor of release of information.

Asked whether one may go to court to compel the executive branch of the government to reveal information, Senator Poe affirmed that any person, through the courts, can compel any department in the executive branch to release information and the courts will decide whether that information is of interest to the public.

Senator Enrile inquired how the information may be obtained expeditiously by the citizenry if it still needs to go to court, noting that it takes years for the court to decide matters and the right to information may be negated by the delay.

Senator Poe proposed to include a time frame, similar to that for the Office of the Ombudsman, for the court to comply with an FOI-request. But Senator Enrile cautioned that imposing a time frame would be tantamount to amending the Rules of Court and interfering in the rule-making power of the Supreme Court.

On whether a citizen can inquire on the billeting system of foreign forces coming into the country and what civilian goods they can bring, Senator Poe opined that since there was no national security issue involved in this particular instance, there is no reason why the information should be denied.

Asked about the concept of national security, Senator Poe said that national security means guaranteeing the safety of the citizenry in all possible aspects that may affect their lives, whether social protection, food, shelter, or even the peace and order situation in the country.

Senator Enrile inquired whether the law can compel the military to reveal their casualty rate and how many insurgents had been annihilated in a given encounter. Senator Poe clarified that if an information was specifically authorized to be kept secret under the guidelines established by an executive order, or that the release of the information would affect the operations or the morale of the troops, the information could be withheld until the conflict is resolved.

Asked how the power of classification given to the executive branch could be limited, Senator Poe said that however broad the FOI bill may seem, the bill was clear about national security and the discretionary power of the executive branch to withhold information if the disclosure would affect national security. Citing the United States which has a successful freedom of information law, she said that the Philippines could learn a lot from the good experiences and proven results of other countries.

Senator Enrile observed that even in the United States, conversation learned through some other means about the lives of people in the country is classified. Agreeing with the observation, Senator Poe pointed out that precisely, this was done to protect certain interests of the country.

Senator Poe recalled that the Freedom of Information bill was passed in the 15th Congress when Senator Enrile was the Senate President and the exceptions in the current measure are no different from what was passed in the last Congress. However, she expressed openness to other exceptions that Senator Enrile might wish to propose.

Senator Enrile said that he was trying to test the breadth of the proposed measure. He acknowledged that while the Senate passed the FOI bill in the 15th Congress, it was not approved by the House of Representatives, so he wanted to know to what extent the Senate has accommodated the concerns of the House of Representatives. Specifically, he expressed the desire to know what allowable information may be asked, what the limitations to disclosure are, and how these limitations are defined specifically to prevent the implementing agency from circumventing the law by the power of classification. He asked examples of information that is proper to be asked and information that is proper to be classified.

Responding thereto, Senator Poe said that basically, anything can be asked except the exceptions under Section 7 of the bill.

Senator Enrile said that he would discuss these exceptions further in January when he resumes his interpellation, noting that the exceptions under the bill are quite broad and may render the bill very weak to really serve the freedom of the people to know.

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Senator Poe expressed confidence that safeguards are in place but she said that at the proper time, she would welcome any amendments from Senator Enrile that would ensure that the people's right to information is not denied.

Asked whether there was a way to limit the Executive's power to classify as some data may be considered sensitive by the Executive branch for its own purpose but not to the public or the requesting party, Senator Poe said that during the period of amendments, criteria may be set forth to limit the "discretion" to make the bill more effective.

Senator Enrile said that he would be suspending his interpellations for the meantime. He said that his questions delved only on the area of national security but public interest, he pointed out, is a very broad concept. He asked whether it was possible to ask the DPWH Secretary for information for every project that is being put on the ground given the fact that a lot of money is spent on infrastructure, for instance, information as regards the specifications in the bidding, who were the bidders, what was the lowest bid and was the lowest bid realistic.

REMARK OF THE CHAIR

At this juncture, the Chair stated that Senator Legarda who had made reservation to interpellate on the bill has requested that her interpellation be deferred to a later day.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1733

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

SUSPENSION OF SESSION

Upon motion of Senator Aquino, the session was suspended.

It was 4:34 p.m.

RESUMPTION OF SESSION

At 4:35 p.m., the session was resumed.

COAUTHOR

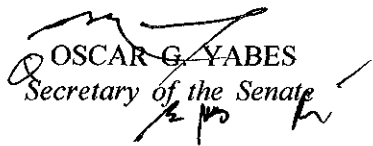
Senator Poe manifested that Senator Revilla is also a coauthor of Senate Bill No. 1733. She informed the Body that Senator Revilla filed Senate Bill No. 1711 (Freedom of Information Act of 2013) on September 18, 2013, which was referred to the Committee on Public Information and Mass Media, five days after the committee reported out Committee Report No. 2 on Senate Bill No. 1733.

ADJOURNMENT OF SESSION

Upon motion of Senator Aquino, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of Monday, December 16, 2013.

It was 4:36 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate

Approved on December 16, 2013