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Senate
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Journal

SESSION NO. 49
Tuesday, February 4, 2014

SIXTEENTH CONGRESS
FIRST REGULAR SESSION

SESSION NO. 49
Tuesday, February 4, 2014

CALL TO ORDER

At 3:20 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Paolo Benigno “Bam” Aquino IV led the prayer, to wit:

Panginoon, kami ay pakumbabang lumalapit sa Inyo, humihingi ng tawad sa aming mga nagawang kasalanan upang kami ay maging ganap na kaayaaya sa Inyong harapan.

Panginoon, kami po ay nagpapasalamat na sa kabila ng aming mga pagkukulang nariyan pa rin Kayo, gumagabay at nagmamahal.

Ipinapanalangin po namin ang aming minamahal na bayan. Patuloy Ninyo pong pagpalain at patnubayan at ilayo sa anumang panganib at kapahamakan.

Sa araw po na ito, kami po ay humihingi ng katalinuhan at malawak na pang-unawa na aming magamit sa aming tungkulin.

Nawa’y ang ginagawa naming batas ay magsilbing instrumento at daan tungo sa pagbabago ng aming bayan.

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.
Cayetano, A. P. C. S.	Marcos Jr., F. R.
Cayetano, P. S.	Osmeña III, S. R.
Drilon, F. M.	Poe, G.
Ejercito, J. V. G	Recto, R. G.
Enrile, J. P.	Revilla Jr., R. B.
Escudero, F. J. G.	Sotto III, V. C.
Estrada, J.	Villar, C. A.
Guingona III, T. L.	

With 21 senators present, the Chair declared the presence of a quorum.

Senator Trillanes arrived after the roll call.

Senator Pimentel was on official mission.

Senator Defensor Santiago was on sick leave.

APPROVAL OF THE JOURNAL

Upon motion of Senator Cayetano (A), there being no objection, the Body dispensed with the reading of the Journal of Session No. 48 (February 3, 2014) and considered it approved.

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ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Cayetano (A) acknowledged the presence in the gallery of the following:

- Philippine Ambassador to Italy Virgilio Reyes;
- Members of the Ten Accomplished Youth Organizations (TAYO) which composed of the Medical Mission Incorporated Students' Group; Pi Kappa Mu Fraternity; Love Yourself Inc.; *Tulong sa Kapwa Kapatid*; Upsilon Sigma Phi Fraternity; Association of Filipino Forestry Students of UP Los Baños; Ateneo *Sarong Bangui* Junior Eagles Club; Kawil Tours; Maestro Club, Tanay Mountaineers Inc.; Boholandi Volunteers Service Program, Inc.; Hayag Youth Organization; Rescue Assistance Peacekeeping Intelligence Detail (Rapid, Inc.); United Architects of the Philippines; Students' Auxiliary-Foundation University Chapter; University of San Carlos Pathways; Association of Locally-Empowered Youth – Northern Mindanao; Tagum Youth Laboratory Cooperative; Team Tombol Mountaineers; Volunteer Service Provider; Watershed Management Youth Council;
- National Youth Commissioners Percival Cedaña, Earl Saavedra and Jose Rafael Cruz;
- AB English students of the University of Rizal System-Angono Campus; and
- Mayor Elvino Balicao Jr. and local officials of Wao, Lanao del Sur.

Senate President Drilon welcomed the guests to the Senate.

REFERENCE OF BUSINESS

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

BILL ON FIRST READING

Senate Bill No. 2097, entitled

AN ACT PROVIDING FOR THE

MODERNIZATION OF THE PHILIPPINE ATMOSPHERIC, GEOPHYSICAL AND ASTRONOMICAL SERVICES ADMINISTRATION (PAGASA), PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Marcos Jr.

To the Committees on Science and Technology; and Finance

RESOLUTIONS

Proposed Senate Resolution No. 474, entitled

RESOLUTION RECOMMENDING TO THE DEPARTMENT OF EDUCATION TO INTEGRATE CYBERETHICS INTO THE BASIC EDUCATION CURRICULUM WITH THE INTENTION OF EDUCATING THE FILIPINO YOUTH THE PROPER USE OF SOCIAL MEDIA

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committees on Education, Arts and Culture; and Youth

Proposed Senate Resolution No. 475, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, TO CONSIDER PROHIBITING THE USE, PRODUCTION, AND SALE OF NAPHTHALENE-BASED PEST CONTROL PRODUCTS IN THE COUNTRY, BASED ON THE REPORTED HEALTH RISKS THE PEST CONTROL PRODUCT POSE

Introduced by Senator Defensor Santiago

To the Committee on Health and Demography

Proposed Senate Resolution No. 476, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO

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CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON NEWS REPORTS OF CALL CENTERS IN THE COUNTRY BEING USED AS FRONTS FOR CYBERPORNOGRAPHY

Introduced by Senator Defensor Santiago

To the Committees on Public Information and Mass Media; and Justice and Human Rights

Proposed Senate Resolution No. 477, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NEED TO INCREASE THE PENALTY FOR THE PRACTICE OF COMPRESSOR MINING AND THE USE OF MERCURY IN SMALL-SCALE MINING TO EFFECTIVELY BAN THIS DEPLORABLE PRACTICE

Introduced by Senator Defensor Santiago

To the Committee on Environment and Natural Resources

Proposed Senate Resolution No. 478, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NUMEROUS REPORTS OF SECURITY LAPSES IN THE NEW BILIBID PRISON, RESULTING TO INJURY AND DEATH OF INMATES

Introduced by Senator Defensor Santiago

To the Committee on Justice and Human Rights

Proposed Senate Resolution No. 479, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON STRENGTHENING THE COUNTRY'S LAWS IN LIGHT OF THE REPORTS THAT THE

'PHILIPPINES' IS AMONG THE TOP 10 COUNTRIES WHERE CYBER-PORNOGRAPHY IS RAMPANT

Introduced by Senator Defensor Santiago

To the Committees on Public Information and Mass Media; and Justice and Human Rights

SUSPENSION OF SESSION

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

It was 3:28 p.m.

RESUMPTION OF SESSION

At 3:55 p.m., the session was resumed.

PROPOSED SENATE RESOLUTION NO. 123

Upon motion of Senator Cayetano (A), there being no objection, the Body considered Proposed Senate Resolution No. 123, entitled

CREATING A SELECT OVERSIGHT COMMITTEE ON BARANGAY AFFAIRS.

The Deputy Secretary for Legislation, Atty. Edwin B. Bellen, read the text of the resolution to wit:

WHEREAS, Section 384 of Republic Act 7160, otherwise known as the Local Government Code of 1991, provides "the barangay serves as the primary planning and implementing unit of government policies, plans, programs, projects, and activities in the community, and as a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled";

WHEREAS, being the basic political unit in the country, barangays serve as indispensable instruments in delivering the basic services to the people, and in implementing the agenda for development at the grass root level;

WHEREAS, there are 42,028 barangays all over the country today. It is unfortunate, however, that many of these barangays are not able to properly and efficiently implement the plans for economic and political growth in their respective territories for the advancement of the people;

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WHEREAS, it has been almost twenty two (22) years since the enactment of the Local Government Code of 1991, and local governance, particularly in the barangay level, has encountered many issues that challenged local autonomy;

WHEREAS, it is vital to constitute the Select Oversight Committee on Barangay Affairs in order to scrutinize how barangays all over the country have performed their mandated duty under the Local Government Code of 1991, and in the end, make their role more responsive to the needs of the people;

WHEREAS, Section 14, Rule X of the Rules of the Senate provides that "Whenever necessary, special committees shall be organized, the membership and jurisdiction of which shall be determined by the Senate President."

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved to create a Select Oversight Committee on Barangay Affairs.

MANIFESTATION OF SENATOR CAYETANO (A)

Senator Cayetano (A) clarified that the committee would have the power of legislative oversight.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 123

Upon motion of Senator Cayetano (A), there being no objection, Proposed Senate Resolution No. 123 was adopted by the Body, subject to style.

COMMITTEE REPORT NO. 2 ON SENATE BILL NO. 1733 (Continuation)

Upon motion of Senator Cayetano (A), 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 Cayetano (A) stated that the parliamentary status was still the period of interpellations.

SUSPENSION OF SESSION

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

It was 3:59 p.m.

RESUMPTION OF SESSION

At 4:00 p.m., the session was resumed.

Upon resumption, the Chair recognized Senator Poe, sponsor of the measure, and Senator Cayetano (P) for her interpellation.

INTERPELLATION OF SENATOR CAYETANO (P)

At the outset, Senator Cayetano (P) stated that she would only ask questions to clarify and ensure that Senate Bill No. 1733 would be less vulnerable to misinterpretations.

On the exception of coverage of "information" which the people could have access to as provided in Section 7(a), Senator Cayetano (P) asked whether the authorization to keep secret an information has to be given before or after the request. Senator Poe said that the intent of the provision is based on the power of the President to withhold information based on national security issues; likewise, it rests on the separation of powers as when the President exercises the right to classify information as confidential, thereby withholding such information from Congress, courts, or the general public especially when it involves national security, overrides public interest or when it falls under any of the exceptions enumerated in Section 7.

On the President's ability to declare the information as a secret, Senator Poe mentioned the case of *Senate vs. Neri* wherein the Supreme Court ruled that certain information was not allowed to be revealed because it would jeopardize the Philippines' bargaining position in international relations and the confidence of other international communities to the country. However, she noted that the FOI bill has remedies and cannot be utilized to cover up a wrongdoing; otherwise, an appeal can be made to appropriate courts by petition for *mandamus* which is deemed applicable even to the Chief Executive when he would take advantage of the power vested in him.

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Senator Cayetano (P) remarked that the bill seems to be a landmark legislation considering that the action of the Chief Executive can be raised before the courts. Senator Poe stated that it is only now that a framework explicitly provides for the proper exercise of the right because the right to information of public concern is clearly established in the Constitution. She added that the bill provides guidance for the proper exercise of the right to access information, and that even the remedies that could be resorted to are specifically stated in the bill.

Asked if she was referring to Section 16(a)(2), Senator Poe affirmed that under the said provision, upon denial of the appeal with the government agency, the requesting party may file a verified petition for *mandamus*; and for administrative cases, an appeal may be filed with the Office of the Ombudsman which, as previously clarified by Senate President Drilon, cannot compel a specific government executive to reveal the information but would just render administrative sanctions.

Senator Cayetano (P) expressed that it was not clear if the sanctions absolutely cover even the Office of the President, and suggested that if the provision intends to likewise cover the said office, it should be made explicit. Senator Poe assured that the proposal would be considered during the period of amendments.

On Section 7(b) concerning the exceptions of access to information in relation to government agencies, Senator Cayetano (P) asked if the Chief Executive may invoke his privilege or right to privacy even if the meeting pertaining to a high-level confidential issue would transpire at the department level only. Senator Poe pointed out that presidential privilege extends to the President and those within close proximity to him. On the other hand, in the case of deliberate process privilege when it is just secretaries discussing with other colleagues or staff, she believed that they cannot deny the information based on fact, but when there is already a promulgation or pronouncement, as long as it is not in the process of deliberation with the President, they should be able to reveal facts related to it.

Senator Cayetano (P) said that she was contemplating of a situation where plans are being discussed but still being held confidential pending submission for the President's approval. She said that in this instance, the President was not involved in the decision-making, Senator Poe replied that the

responsibility rests in the Cabinet members and that they should refrain from candidly engaging in conversations which might jeopardize the plan. She emphasized that the main importance of the bill is the freedom of information *per se*, and not just particular persons which the president would deal with. Also, she noted that it is only the President or his executive secretary who is authorized to claim and invoke the executive privilege, so that when the nature of information is confidential, the Cabinet members involved should be careful with the information that they have.

Senator Cayetano (P) stressed that the extent of the President's right to invoke must be clarified to avoid misinterpretation but, at the same time, see to it that the freedom of information is ensured.

Asked if the executive privilege would cover confidential matters which any government agency has the right to protect, Senator Poe replied that yes, it falls under the exceptions in Section 7.

On whether the department secretary can yield to the president's position in case of confidential matters discussed wherein the president has not yet been part of, Senator Poe expressed that it is the secretary's responsibility to be extra careful because divulging any information like those pertaining to national security being an exemption in the FOI bill, is a violation thereof.

In addition, she stated that the government agency must provide the information requested within a period of fifteen (15) days from receipt, if allowable. She explained that the 15-workday period from which the request was submitted is supported in the case of *Senate vs. Ermita* when the Supreme Court stated that any executive official should be given reasonable time to notify the president or the executive secretary of the possible need for invoking executive privilege.

Senator Cayetano (P) remarked that she would like to think that the deliberations on the floor would have a persuasive influence on the interpretation of the law. Thereupon, she asked if it may be possible for executive privilege to be invoked even if the president is not involved in the discussion. Senator Poe replied that it may be possible.

On Section 7(c) and the succeeding subsections, Senator Cayetano (P) noticed that there is nothing in there that covers general security. She pointed out that "general security" is, in fact, anything that

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puts a risk to the stability of a country, i.e., health pandemics, disaster risk, terrorism, internal peace and order, food security, social security, healthcare, education, etc.

For instance, when there is a pandemic or health risk in a remote area, Senator Cayetano (P) pointed out that as a security measure, the government would opt to keep the information private from the media to avert the possibility of a national panic and disaster. She then indicated her intention to extend the coverage to include other security issues. Senator Poe agreed, pointing out that "national security" connotes everything within a society, taking into account the preservation of the well-being of the lives of the people in the community, including health and food security. For instance, she said that if a particular issue would affect the price of commodities and might result in public panic, then the government should be able to exercise its right to diligently withhold information that might be detrimental if this is not properly understood.

Moreover, Senator Poe noted that national security not only concerns military or diplomatic state secrets but anything that would imperil the nation's well-being such as its territorial, political, economic and environmental security as well as disaster preparedness and response. She said that these issues could also be incorporated in the measure during the period of amendments.

Senator Cayetano (P) expressed her intention to propose an expanded definition of the term "security" under Section 3 (*Definition of Terms*) at the proper time.

As regards Section 7(d), Senator Cayetano (P) noted that the provision is too open-ended that it may end up prohibiting all kinds of information. Senator Poe replied that she too has the same observation and she informed the Body that the Committee was thinking of adding a phrase, for instance, "the revelation of which would impair the impartiality of verdicts or otherwise obstruct the administration of justice." She said that she would welcome any suggestions from Senator Cayetano (P) to improve the provision during the period of amendments.

Adverting to Section 7(k)(3), Senator Cayetano (P) sought clarification on whether the exceptions that would be invoked by, among others, the Supreme

Court, Senate, House of Representatives or constitutional commissions would have to be done by the majority voting as a body. Senator Poe replied that the rules of each constitutional body would be applied, and she agreed to clarify whether it should be majority of the members present or majority of the entire membership. She remarked that the confusion in such cases sometimes come from procedures followed in other branches of government.

On another matter, Senator Cayetano (P) noted that Section 9 (*Openness and Transparency in Government Agencies*) mandates government agencies to make available certain information at no cost to the public, meaning, that the people can readily access the information they need through, among other means, the agency website. However, she asked how the government ought to respond to requests for information considering that the data is easily accessible online. She lamented that there are some lazy researchers/data gatherers who would rather have someone else do their work for them. She expressed her intention to find a way to declog the work of government agencies who are burdened with sifting through numerous requests for various information by possibly including a provision on awareness and information in the bill. She believed that children have to be taught how to do research properly instead of bombarding government agencies with inquiries which they could very well answer for themselves.

For her part, Senator Poe said that the agency representatives could direct the person making such inquiries to their website. She stressed that mere denial of providing the information in good faith is not a ground for liability. She pointed out that a government representative could not be sued simply because he did not provide information which is available on the website unless, of course, such information were incomplete.

Moreover, Senator Poe said that the bill includes a provision that mandates all government agencies to be compliant with the direction of the National Computer Center so that there will be enough capacity building for these agencies. She noted that the Integrated Government Philippines (iGovPhil) project directs all government agencies to have a user-friendly standard format for their websites. She stressed the importance of ensuring that these websites are working properly because the website is a key to FOI.

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In a related matter, Senator Cayetano (P) noted that the Senate Journal, which she quotes in her blog and press statements, is a scanned document which cannot be highlighted and, as such, has to be copied through screen captures when portions are needed for reports. She also expressed her frustration over the technology used in the posting of the Journal and suggested that its format be adjusted so that it could be easily accessed. Senator Poe cited Section 19 (*Capacity-Building, Promotion of Best Practices and Continuous Updating of Appropriate Information Technology and FOI*) which states that the end goal of the National Computer Center is the usability and practical accessibility of government documents by the public. This particular provision, she noted, was borne out of the Open Government Partnership agreement which was launched in the United States two years earlier and of which the Philippines is a signatory even though it does not yet have an FOI law. She said that there are certain outlines that should be followed so that the agency can highlight the important data that a person needs and allow him immediate access to it, but she emphasized that this should not disqualify that individual from asking for particular information. For instance, she said that the government must make available the information of a government-sponsored study or survey unless this was done in partnership and with the funding of a private organization.

Asked whether the government is duty-bound to reveal the results, for instance, of a survey conducted to determine the effectivity of a program, Senator Poe replied that the government cannot conceal the results unless it would imperil national security; otherwise, the government representative could be brought to court if such information were withheld.

Senator Cayetano (P) pointed out that corporations rely on data to determine their courses of actions such as their product launches or the termination of their product lines. She said that often times, she would read studies on nutrition and health which correct misinterpretations that came out of previous studies either due to the wrong handling of the data or the skewed questions prepared during the process of information-gathering. In this case, she asked whether the measure would mandate government to release the results of government-sponsored studies even if there were discrepancies or errors in the outcome of such research. Senator Poe replied that a disclaimer could be included in the document. She believed that the government

ought to purchase data from other countries and make these available to the public so that local industries could be prepared to address global economic trends such as the aging population in China or the needs in Japan.

Senator Cayetano (P) said that the private sector, which pushes economic growth, could also benefit from such studies. She said that the matter would be related to her concern on security issues particularly since Senator Poe has raised a situation which she had also pondered on as result of her studies and dealings with the Japanese government and her readings on the aging population of Japan. She said that the data could provide Filipinos with information on the kind of services it can offer in terms of caregiving and health care to Japan's aging population. She added that the country's human resources would stand to benefit by giving jobs to the people. She pointed out that if the country does not take advantage of the information available, it could lose these opportunities to more enterprising and data-driven countries.

Senator Cayetano (P) noted that even in the Philippines, all it would take is to conduct a survey and not even involve purchase of data. She hoped that Senator Poe would join her in one of the committee meetings she would be conducting within the month to look into the country's existing demographics. She observed that the Philippines has a rapidly growing young population and it is important to know what jobs could be available for them in the future, whether in or out of the country, what technology could be brought in to provide jobs, and what kind of education is needed to prepare the young people to ensure their employment.

Relative thereto, Senator Poe disclosed that *Time* magazine published a study that by the year 2050, the Philippines would be the 13th largest economy while in China, one in three of its population will be over 60 years old which is a product of their successful one-child policy.

For her part, Senator Cayetano (P) said that millions of Chinese men of marriageable age will never marry by a certain year and, based on history, these unmarried men are a security issue because they are dangerous to peace and order.

Senator Poe pointed out that according to the CIA website which has information about each

country, the Philippines, as early as two years ago, already had a population of 103 million.

Adverting to the open government partnership conference mentioned earlier, Senator Poe bared that Malou Mangahas and the PCIJ were the ones tasked to monitor the country's compliance.

Moving on to questions sent to her via the social media Twitter, Senator Cayetano (P) asked how the people would know whether there would not be any misinterpretation of data in terms of submission, Senator Poe replied that the government could never guarantee everything but it can only do its best under the circumstances.

Agreeing to the observations of Senator Poe, Senator Cayetano (P) pointed out that the bill provides for penalties for those who provide false information.

Asked whether the provisions of the FOI bill apply to all public documents or only to those created after it is enacted into law, Senator Poe replied that the law is not retroactive. Nonetheless, she said there are certain institutions that are good in record-keeping like the Senate where it has kept copies of laws even as early as the 1800s. She pointed out, however, that in some agencies, like the MTRCB two years ago, anyone who would have requested for information but was denied because the same was not available then could not sue the agency later under the FOI law.

Senator Cayetano (P) acknowledged that some information may not have been preserved or archived the way it should be according to the provisions of the law.

Senator Poe said the government would provide the information as much as possible. She noted that the National Archives Act has a stipulation which provides that every agency will clearly mark certain things that are evidentiary, historical, and administrative. She stated that copies of documents subject of a graft case, treaties or the SALNs of public officials, cannot be destroyed.

Asked whether previous documents that were used prior to the passage of the FOI bill may be used as evidence in future cases, Senator Poe replied that they could be used as long as the courts do not order them to be exempted, in which case, they should not be revealed.

As regards the release of surveys funded by the government and private sector, Senator Poe clarified that the private organization should be aware that they might be compelled to reveal the results if the need arises. She explained that information as defined in the FOI bill refers to anything produced or received, however, the protection rights, copyrights, patents or information held by the government must be protected by the government.

Asked if there is a procedure to responding to questions under the FOI bill, Senator Poe replied that communications or questions must be responded to within 15 days. However, she clarified that queries which are posted in social media sites such as Facebook and Twitter are not considered as official and not covered by the FOI law.

Relative thereto, she stressed the importance of an FOI manual and FOI desk in every government agency. She pointed out that people can ask questions but until the questions are received in an official and formal way or reduced to writing, that is the only time that the 15-day rule would apply, otherwise, the government would all be penalized and burdened with so many requests or inquiries.

Senator Cayetano (P) said that people should not just throw out questions and then pick on government for not responding promptly. She stated that the public should support the government in this endeavor.

INQUIRIES OF THE CHAIR

Senate President Drilon pointed out that under the Anti-Money Laundering Act (AMLA), transactions in cash involving amounts in excess of P500,000 in one day are considered covered transactions which banks are required to report to the Anti-Money Laundering Council (AMLC). He then asked whether these reports are considered public documents and whether the AMLC is obliged to reveal these transactions.

Senator Poe explained that according to Section 7(g) of the FOI bill, information requested pertaining to trade secrets and commercial or financial information obtained from a natural or juridical person other than the requesting party, obtained in confidence or covered by privileged communication, and/or filed with a government agency, whenever the revelation thereof would prejudice the interests of such natural or juridical person in trade, industrial, financial or commercial competition are exceptions under the proposed measure.

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Further, she said that there is certain information that is furnished the government, but in the interest of the individual and their right to privacy, the government does not necessarily have to reveal such information. For example, she stated that certain court evidence, while a case is being heard or there is no decision yet on the case, the courts can withhold that evidence. She clarified that the definition of information in court and also in the FOI do not necessarily mean the same thing.

Senate President Drilon expressed doubt whether the provision cited would be enough to prevent an access to reports of the banks on covered transactions because the general rule is that people now would have access to public records except as may be limited by the provisions of the FOI law. He opined that the provision was too broad to justify a refusal of the Anti-Money Laundering Council (AMLC) to comply with the obligations of the FOI law. He asked that the matter be examined carefully as it is a public document that is required by law to be in the possession of the AMLC.

Senator Poe presumed that operations of the AMLC are considered legitimate law enforcement investigations to pinpoint possible suspects for money-laundering and that an investigation into a legitimate activity is an exception under the FOI law. In such case, she said that the identities of the individuals suspected of the crime should not be revealed. Senate President Drilon, however, pointed out that a covered transaction does not indicate an investigation nor a wrongdoing because where a transaction exceeding P500,000 in one day exists, it is required to be reported; on the other hand, a suspicious transaction is reported when banks, by virtue of certain information, have doubts on the legitimacy or the source of the money deposited regardless of the amount, and a transaction report is then filed which may be argued to be in the nature of an investigative inquiry. He reiterated that in covered transaction reports, there is no indication of fraud or crime, only that when P1 million, for instance, is deposited in the bank, it is reported as a covered transaction.

Asked if a newsman who writes the AMLC requesting access to reports on the deposits made by senators beyond P500,000 could be allowed access to the records which are considered public, Senator Poe said that the matter would be considered during the period of amendments to ensure that the banking secrecy laws are protected. In the same manner, she said that information or records from the Bureau of

Internal Revenue cannot be released easily even if there are requests as they are safely guarded by the BIR.

Asked if such provision is contained in the FOI measure, Senator Poe assumed that there is a separate law that addresses such a situation. But, Senate President Drilon pointed out that the FOI bill, once enacted into law, would be a later law which could be asserted as having amended the BIR law.

Senator Poe pointed out that if the information sought relates to national interest or national security, its release or even portions of it, should not be allowed.

Senate President Drilon reiterated the need for careful review on the effect of the bill on other laws, particularly on the Anti-Money Laundering Law.

REMARK OF SENATOR CAYETANO (A)

Senator Cayetano (A) urged his colleagues to bring out their concerns as regards the FOI bill. He noted that questions cropped up everytime specific circumstances are raised. He agreed on the need to protect the government, because if the FOI strengthens information but weakens the government, it would be the people who would eventually suffer. Senator Poe expressed willingness to accept amendments at the proper time that would ensure that the government remains strong and that it would have the capability to implement the laws that it should uphold for the people.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1733


Upon motion of Senator Cayetano (A), there being no objection, the Body suspended consideration of the bill.

ADJOURNMENT OF SESSION

Upon motion of Senator Cayetano (A), there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of the following day.

It was 5:09 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate
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Approved on February 5, 2014