



REPUBLIC OF THE PHILIPPINES
Senate
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Journal

SESSION NO. 56
Tuesday, January 31, 2017

SEVENTEENTH CONGRESS
FIRST REGULAR SESSION

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CALL TO ORDER

At 3:36 p.m., the Senate President, Hon. Aquilino "Koko" Pimentel III, called the session to order.

PRAYER

Sen. Richard J. Gordon led the prayer, to wit:

Heavenly Father, we gather once again to say our prayers. We do it daily and we just pray that You will listen to us. There are so many problems in this country, and we pray with our faith, with our hope, and with our vision.

As we gather today, we hope that You can shine Your light upon us so we can perform our task as a legislative body. We ask for the light of Your wisdom so that we may do our work according to Your will.

Give us the wisdom to enact legislation that would vanish divisiveness, foster unity so that we can do all our part in bringing this country towards continuous development, especially as we guide ourselves into craft-

ing the necessary laws and policies that would make our society more inclusive, more egalitarian, and more meritocratic.

And so, Father, we ask all these in Your Name, and may God bless the Republic of the Philippines and the people of the Philippines.

Amen.

ROLL CALL

Upon direction of the Senate President, the Secretary of the Senate, Atty. Lutgardo B. Barbo, called the roll, to which the following senators responded:

Angara, S.	Hontiveros, R.
Binay, M. L. N. S.	Lacson, P. M.
De Lima, L. M.	Pangilinan, F. N.
Drilon, F. M.	Pimentel III, A. K.
Ejercito, J. V. G.	Poe, G.
Escudero, F. J. G.	Sotto III, V. C.
Gatchalian, W.	Villanueva, J.
Gordon, R. J.	Zubiri, J. M. F.
Honasan, G. B.	

P. M.

With 17 senators present, the Chair declared the presence of a quorum.

Senators Pacquiao and Recto arrived after the roll call.

Senators Aquino, Cayetano and Trillanes were on official mission abroad to attend the 65th National Prayer Breakfast at the Washington Hilton in Washington, D. C.

Senator Villar was on official mission abroad to visit the various developmental projects and ideas in the agricultural sector in Israel as indicated in the 19 January 2017 letter of authority of Senate President Pimentel.

Senator Legarda was on official business as indicated in the January 31, 2017 letter of the Senator's chief legal officer.

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. 55 (January 30, 2017) and considered it approved.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following messages and resolution which the Chair assigned to the committees hereunder indicated:

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

Letter of President Rodrigo Roa Duterte, dated 6 January 2017, submitting for the Senate's consideration and concurrence the "Agreement *Establishing ASEAN+3 Macroeconomic Research Office (AMRO)*," which was signed on 10 October 2014, in Washington D. C., United States of America.

To the Committee on Foreign Relations

Letter of President Rodrigo Roa Duterte, dated 17 January 2017, submitting for the Senate's consideration and concurrence the "*Convention between the Government of the Republic of the Philippines and the Government of the Kingdom of Thailand for the Avoidance of*

Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income," which was signed on 21 June 2013, in Manila, Philippines.

To the Committee on Foreign Relations

RESOLUTION

Proposed Senate Resolution No. 280, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON REVIEWING THE FEASIBILITY OF INCREASING THE SOCIAL PENSION FOR INDIGENT SENIOR CITIZENS UNDER REPUBLIC ACT NO. 9994, OTHERWISE KNOWN AS THE EXPANDED SENIOR CITIZENS ACT OF 2010

Introduced by Senator Grace Poe

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

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 14 on Senate Bill No. 30 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 30 ON SENATE BILL NO. 14

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 14 (Committee Report No. 14), entitled

AN ACT ADJUSTING THE AMOUNT INVOLVED, VALUE OF PROPERTY OR DAMAGE ON WHICH A PENALTY IS BASED, AND THE FINES UNDER ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE.

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 Drilon for the sponsorship.

**SPONSORSHIP SPEECH
OF SENATOR DRILON**

Senator Drilon, chairman of the Committee on Constitutional Amendments and Revision of Codes, presented for the Body’s consideration Senate Bill No. 14 which, he said, seeks to adjust the outdated values set forth in the Revised Penal Code. He believed that the measure, once enacted, would be beneficial to the accused, especially the poor inmates, as the value of the property they stole as well as the sentence imposed on them would be equitably reduced.

The full text of Senator Drilon’s sponsorship speech follows:

In 2014, the Supreme Court, in the case of *Lito Corpuz v. People of the Philippines* (G. R. No. 180016, 29 April 2014), called upon Congress to wield its power, not only in promoting justice, but also preventing injustice by ensuring the proportionality of the crime and punishment.

This bill is in response to that plea of the Supreme Court.

In that case of *Corpuz v. People*, the Supreme Court had to rule on an issue concerning the fairness of continuing to impose penalties based on the amount of damages measured by the value of the money 87 years ago. The Supreme Court turned the spotlight on a perceived injustice, brought about by the range of penalties that the courts continue to impose on crimes against property committed today, based on the damage measured by the value of the property in 1930.

The Supreme Court, cannot, on its own, adjust the outdated values set forth in the Revised Penal Code without committing judicial legislation.

The only remedy is to call for the much-needed overhaul of an archaic law that was promulgated decades ago when the political, socio-economic, and cultural settings were very much different from today’s conditions.

In order to prevent any violation of the constitutional prohibition against cruel and excessive punishment, the Supreme Court asked

Congress in the *Corpuz* case to realign the Revised Penal Code with the goals for its passage and take into consideration the changed conditions since the law’s enactment.

Close to nine decades have passed since Act No. 3815, otherwise known as the Revised Penal Code, was enacted in 1930. Despite undergoing a number of piecemeal amendments over the years, the Revised Penal Code has for the most part endured and remained to be the most extensive and significant reference work in the Philippine Criminal Law.

Yet, even the finest pieces of legislation are rendered obsolete by the passage of time. Today, beyond mere obsolescence, the Revised Penal Code may even be attacked as inflicting “cruel, degrading or inhuman punishment,” in violation of our Bill of Rights – particularly Article III, Section 19 of our Constitution.

For is it not clearly “cruel, degrading, and inhuman” to imprison for 12 to 20 years, one who is found guilty of armed robbery in an inhabited house, a public building, such as the Senate, or a church where the value of the property exceeds P250?

In essence, the proposed measure, therefore, seeks to accomplish two things: first, update the value of the damages used in determining the extent of liability and imprisonment; and second, adjust the amount of fines.

In drafting the measure, we relied on the formula, and adopted, the formula of the Department of Justice.

The application of the DOJ formula yields adjusted rates that are more appropriate for the objectives of the law – one, to avoid the imposition of cruel and excessive punishment, and two, to make imposable fines an effective deterrent to crimes.

The DOJ formula can be stated as follows:

The value of the property or damage, or the amount involved in the crime, or fine	÷	P2.5 (which was the 1930 minimum wage rate)	x	P500 (which is the current highest minimum wage rate round off to the nearest hundred)
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To give an example, where P250 was the value of property stolen when the Penal Code was drafted in 1930, that value would now be changed to its current equivalent of P50,000 as

shown in the chart that we are presenting, for the values under the Revised Penal Code (RPC) and the adjusted values under the formula of the Department of Justice.

Based on the present provision of the Revised Penal Code, a person found guilty of estafa today involving an amount of P250 will suffer a jail term or will be imprisoned for up to two years and four months. Under the proposed measure, the imposable penalty for such an offense involving the same amount will be reduced to four months of imprisonment. Theft of P500 under the present table of penalties under the Revised Penal Code is punishable by imprisonment of six months up to four years. Under the proposed measure where the theft is P500, the penalty will be an imprisonment of anywhere from one to two months.

Finally, the proposed measure also seeks to adjust the value of the fines. Its passage means that the P5 fine that can be imposed under the present law will be increased to P1,000. Today, there are fines in the Penal Code which are at the level of P5. A maximum fine under the present Penal Code of P22,000 will be increased to P4.4 million. This computation is consistent with RA 10159 which amended the Revised Penal Code on subsidiary penalty. "Subsidiary penalty," as lawyers understand it, is a system which imposes jail time on a convict who does not have personal property or money to pay for the fine imposed. In Republic Act No. 10159, Congress adjusted the subsidiary imprisonment from one (1) day for every P8 fine which is not paid — P8 was the minimum wage rate in the 1950s — to a rate of one (1) day for each amount equivalent to the highest minimum wage prevailing at the time the judgment of conviction is rendered by the trial court.

It bears emphasizing that the proposed bill focuses only on the adjustment of the outdated values in the Penal Code. We purposely left the elements of the crimes untouched to avoid prolonged debates. We hope that by doing so, we can focus on a single policy issue.

Being beneficial to the accused, this measure will have retroactive effect.

Once enacted, it would benefit, according to the Public Attorney's Office, about 54,189 poor inmates, mostly poor. Not that they will be immediately released, but their sentences will be equitably reduced, corresponding to today's value of the property stolen, not the values set in 1930.

We truly believe that the threat of injustice created by an outdated instrument of justice is real, and thus requires immediate legislative action.

For these reasons and more, we urge the swift passage of Senate Bill No. 14 under Committee Report No. 30.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 14

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

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

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

- SEC Chairperson Teresita Hermosa, together with Commissioners Antonieta Ibe and Blas James Viterbo, General Counsel Camilo Correa and General Accountant Emmanuel Artiza;
- Ferdinand B. Sales, Gerardo del Rosario, Directors Adelaida Banaria and Amando Pan, the secretary of the Commission;
- Delegation from the De La Salle University and Charles Darwin University School of Law headed by Atty. Jocelyn Cruz, Director for External Affairs; and
- Third-Year Political Science students of the Unibersidad De Manila led by Professor Jennalyn Huertas and class president Prince Lopez.

Senate President Pimentel welcomed the guests to the Senate.

SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 31 on Senate Bill No. 1306 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 31 ON SENATE BILL NO. 1306

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 1306 (Committee Report No. 31), entitled

AN ACT CREATING THE PHILIPPINE BOXING COMMISSION TO STRENGTHEN THE BOXING INDUSTRY AND PROMOTE THE SAFETY AND WELFARE OF FILIPINO BOXERS, AND PROVIDING FUNDS THEREFOR.

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 Pacquiao for the sponsorship.

**SPONSORSHIP SPEECH
OF SENATOR PACQUIAO**

Senator Pacquiao, chairman of the Committee on Sports, submitted to the Body for its plenary consideration Senate Bill No. 1306, entitled "An Act Creating the Philippine Boxing Commission to Strengthen the Boxing Industry and Promote the Safety and Welfare of the Filipino Boxers, and Providing Funds Therefor," under Committee Report No. 31, in substitution of Senate Bill Nos. 191, 541 and 1147, jointly prepared and submitted by the Committee on Sports, Health and Demography, and Finance, with Senators Trillanes, Villanueva and Ejercito as coauthors.

Following is the full text of Senator Pacquiao's sponsorship speech:

We have a common goal: *To ensure the success of grassroots sports development.* In the past few months, we have conducted committee hearings and discussions with the officials of the Philippine Sports Commission, the Games and Amusements Board, the Philippine Olympic Committee, as well as various groups of athletes and other stakeholders. Together, we have scrutinized the problems and explored the solutions that will address the wide range of concerns regarding sports. There is so much to be done, but we need to start somewhere.

Boxing is my passion. *Diyan ako hinubog ng Panginoon upang maging instrumento sa pagtulong sa ating kapwa.* Yes, boxing has always been my passion, so let me start with it.

Boxing is a specialized sport that should be handled by people knowledgeable of the risks involved. It is about time that these passionate

athletes who bring honor to our country while risking their lives inside the ring be given due attention, proper aid and necessary support.

This bill seeks to establish the Philippine Boxing Commission with the primary goal of strengthening the boxing industry in our country. As a national government agency, the Philippine Boxing Commission will not only pursue the sports development program but also utilize the sport as a source of revenue and employment to promote the safety and welfare of Filipino boxers, and provide supplemental assistance to the industry's registered stakeholders.

The Philippine Boxing Commission is tasked to formulate, review and update the rules and procedures related to professional boxing in the Philippines in conformity with international standards in order to regulate the boxing industry for the accomplishment of its objectives.

That way, we can establish linkages with international boxing organizations or institutions and counterpart agencies of foreign governments.

Napakalaki ng potensyal ng ating bansa sa larangan ng boksing. Bago ko pa man narating ang aking kinalalagyan ngayon, mayroon ng magigiting na mga boksingero na itinaas ang bandila ng Pilipinas. Sila Pancho Villa, Gabriel "Flash" Elorde, Rolando Navarette, Luisito Espinosa at Gerry Peñalosa ay ilan lamang sa mga nagbigay daan para sa mga atletang tulad ko na makilala sa buong mundo. Ilan pa kayang Nonito Donaire Jr., Donnie Nietes at Brian Vitoria ang naghihintay mabigyan ng pagkakataon na bigyang karangalan ang ating bansa?

While giving honor and glory to our country, Filipino boxers risk their lives in this sport. We are aware the some have met their untimely death due to the lack, if not absence, of safety and emergency medical services, while others face retirement without any kind of financial assistance or access to medical care.

Kadalasan, ang boksing ay ang tanging pinagkukunan ng kita ng mga atleta. Sa kasamaang palad, pagka-retiro, kasama ring mawawala ang kanilang income. May mga pagkakataon din na ang mga boksingero ay nagre-retiro nang maaga dahil nagkakaroon sila ng injury at hindi na puwedeng lumaban.

Through the Philippine Boxing Commission, we would be able to provide disability and death benefits as well as other benefits alongside a pension system for all boxers participating in boxing events/matches sanctioned by the Commission. Safety standards will be in place to

MSJ

ensure that emergency medical personnel and services are available in every professional boxing match in the Philippines.

We need the Philippine Boxing Commission to act as a quasi-judicial board when it shall deem necessary to initiate, undertake, hear and decide any investigation for any violation of rules and regulations concerning professional boxing.

With our concerted efforts, we will position the Philippines to become the "Boxing Capital of Asia." Through the Philippine Boxing Commission, we will have what it takes to gain such distinction.

I humbly request the expeditious approval of this measure.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:01 p.m.

RESUMPTION OF SESSION

At 4:03 p.m., the session was resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1306

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

COMMITTEE REPORT NO. 22 ON SENATE BILL NO. 1280

(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1280 (Committee Report No. 22), entitled

AN ACT AMENDING BATAS PAMBANSA BLG. 68 OR THE CORPORATION CODE OF THE PHILIPPINES.

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

Thereupon, the Chair recognized Senator Drilon, sponsor of the measure, and Senator De Lima for her interpellation.

INTERPELLATION OF SENATOR DE LIMA

Adverting to the title of the bill, Senator De Lima asked why the Committee on Constitutional Amendments, Revision of Codes and Laws styled the title as an act "amending" instead of "revising" the Corporation Code notwithstanding that several bills regarding the subject were consolidated which resulted in a consolidated substitute bill.

Senator Drilon clarified that there was no particular consideration for the use of the word "amending". However, he informed the Body that during the period of committee amendments, the Committee would submit the bill containing all sections that were not revised so that it would be one continuous bill, and the consolidated substitute bill would be entitled "The Revised Corporation Code of the Philippines" considering the extensive amendments that were being introduced.

Senator De Lima explained that she asked the question because although the measure does not seek to overhaul the entire Corporation Code, there were quite a number of provisions that were going to be affected.

Senator Drilon reiterated that precisely the Committee would introduce as committee amendment the adoption of sections of the present Batas Pambansa Blg. 68 which were not amended so that the end product would be a republic act which repeals in its entirety Batas Pambansa Blg. 68.

At this juncture, the Senate President Pimentel relinquished the Chair to Senator Ejercito.

As regards the qualifications of incorporators, Senator De Lima noted that as the law stands, prior to the proposed amendments, the term "incorporator" speaks only of natural persons who may form a private corporation for any lawful purpose or purposes; however, as proposed to be amended by Section 4, "any person, partnership, association or corporation, singly or jointly with others are expressly authorized to organize a corporation for any lawful purpose or purposes, a majority of whom should be residents of the Philippines. Asked what entities were encompassed by the term "association" to qualify as incorporators, Senator Drilon said that associations refer to non-profit organizations being organized.

Asked if the proposed amendment now allows associations and corporations to be incorporators, not

just natural persons as mandated under the current law, Senator Drilon affirmed that a one-person corporation (OPC) such as an estate, is now recognized as a new corporate entity, the purpose of which is to allow businessmen the benefits of a corporation without resorting to nominating “dummies” as incorporators or members of the corporation when, in fact, it is a corporation belonging to one person. He stated that this innovation is a recognition of present-day realities and the fact that OPCs are recognized worldwide. He believed that there are no strong policy objections to have an OPC in the country because it is part of the effort to enhance the ease of doing business in the country.

Senator De Lima acknowledged the wisdom of introducing the OPC as a new corporate vehicle for one incorporator, sole incorporator or sole stockholder as a corporation. Senator Drilon clarified that there is no limit to the number of OPCs one may avail of.

To the rationale of removing the limitation that an individual may only incorporate one OPC, Senator Drilon explained that the removal of the limitation is in recognition of the fact that a single individual may engage in several kinds of business. Also, he said that removing such restriction enhances the environment to do more business.

On whether or not the OPC whose single stockholder is a natural person is entitled to avail of perpetual existence, Senator Drilon replied in the affirmative.

Senator De Lima said that she would like to believe that the policy considerations that were being used to justify the grant of such an option to ordinary corporations did not apply to a one person corporation precisely because it has the same director, president and stockholder throughout its existence and, as such, the changing of such officers to be able to keep track of the expiration date does not apply. She believed that the rationale for the introduction of the concept of perpetual term cannot apply to a one person corporation because it is unlikely for the same single stockholder of an OPC to be able to manage the affairs of the corporation as its sole director and president for more than 50 years.

Senator Drilon explained that allowing OPCs would enable a businessman to avail of the corporate vehicle to conduct business. He stated that in case of the demise of the single stockholder, there are proce-

dures upon which the OPC can continue to exist by having the court appoint a temporary director, manager or nominees and have the heirs take over once the estate is settled. He believed that there is no policy distinction between the corporation and an OPC because it would serve the same purpose of allowing the continuity of the entity in its corporate form rather than be disrupted by an expiration of the term.

Adverting to Section 124 (TREASURER, CORPORATE SECRETARY, AND OTHER OFFICERS) which requires the single stockholder to appoint the treasurer, corporate secretary and other officers, Senator De Lima sought clarification on whether the last paragraph of the same section, which states that the single stockholder may not be appointed as the corporate secretary, would also imply that he is not prohibited from designating himself as the treasurer or any other officers of the OPC which he may deem necessary. In reply, Senator Drilon pointed out that Section 25 assigns special functions to the corporate secretary which necessitate that the single stockholder may not appoint himself as the corporate secretary. He explained that the prohibition for the single stockholder to appoint himself as the corporate secretary was necessitated by the very nature of the organization particularly as stated in paragraph 3 of Section 125 which provides that the commission must be notified of the death of the single stockholder which would not likely happen if the corporation secretary, who is tasked with this responsibility, is the same individual.

Asked whether the single stockholder would have the authority to designate himself as corporate treasurer, Senator Drilon replied that it is possible because there is nothing that prohibits the single stockholder from doing so.

To Senator De Lima’s concern that there are not enough safeguards to preserve the interests of other stakeholders such as the creditors of the corporation since having one person to hold the position of all corporate officers might give rise to occasions for conflicts of interest or might lead to an abuse of power, Senator Drilon clarified that certain measures have been set in place such as reportorial requirements which require a disclosure of all self-dealings and related party transactions which is part of the report that would be submitted to the commission. Again, he affirmed that the position of corporate secretary is the only position that the single stockholder is prohibited from taking on himself because it is the

Drilon

officer who is tasked to report the death of the single stockholder to the SEC. However, he expressed willingness to accept amendments from Senator De Lima on the matter at the appropriate time.

Adverting to Section Section 126 and 127 which provides for the designation of nominee and alternate nominee whose function is to “take the place of the single stockholder as director and shall manage the affairs of the corporation, “Senator De Lima raised the possibility that the nominee and alternate nominee may be closely related to the single stockholder, and she asked who would be authorized to designate the manager of the corporate affairs of the firm in the unlikely event that the single stockholder and his alternates either pass away or become incapacitated simultaneously or in close succession to one another without any of them having the opportunity to designate another nominee to manage the corporate affairs in their stead or until the single stockholder regains capacity to resume such duties or until the procedure following the death or permanent incapacity of the former has been accomplished. Senator Drilon replied that in a situation where the single stockholder and all his legal heirs perish, the rules on succession would follow such that whoever is the legal heir left would be the one to take over as the nominee. This, he said, would be similar to a single proprietorship where the business would be inherited by the legal heir. He explained that the measure provides a corporate vehicle upon which the management of the OPC would be passed on to in case of a calamity or famine resulting in the deaths of all direct heirs.

On another matter, Senator De Lima quoted an empirical study by the Cornell Law Review which states that “The number of shareholders makes a difference in the propensity of courts to pierce the veil of corporations. Among close corporations, those with only one shareholder were pierced in almost all 50% of the case. For two- or three-shareholder corporations, the percentage dropped to just over 46%, and for close corporations with more than three shareholders, the percentage dropped to about 35%.” She added that the 1897 decision of the House of Lords which upheld the limiting liability of what was essentially a one person corporation have caused the courts and commentators to vigorously debate the propriety of limited liability for these enterprises. She said that the article also cited concerns over “the peculiar opportunity for manipulation and superior knowledge of the sole shareholder” and it would be “desirable that the sole shareholder claiming limited

liability affirmatively shows that the corporation was adequately financed.” In view of such findings, Senator De Lima sought clarification on whether the bill intends to grant the OPC exactly the same nature of limited liability of ordinary corporations.

Replying in the affirmative, Senator Drilon, stressed that the grounds for “piercing the corporate veil” would still apply even in cases of OPCs. For instance, if the corporation was formed for some unlawful purpose, he said that the fact that there is a corporate entity would not prevent the injured party from piercing that veil of corporate entity and run after the personal assets of the single stockholder, if necessary. He pointed out that incorporating the OPC will align Philippine laws so that the country would be competitive with other countries and not be placed at a disadvantage considering that other members of the international community such as the United Kingdom, the European Union, United States, Singapore, China, United Arab Emirates, Turkey, Pakistan, New Zealand and India allow the operation of OPCs. He believed that the measure would improve the country’s investment climate by encouraging entrepreneurship as well as the incorporation of small and medium size enterprises.

Senator De Lima said that she was fully supportive of the introduction of the OPC concept and of the equal application of the doctrine of the piercing of the corporate veil to such entities. She asked whether Senator Drilon would welcome suggestions for additional safeguards into the measure. Senator Drilon replied in the affirmative.

Regarding professional corporations, Senator De Lima asked whether under the proposed amendments a natural person who is licensed to practice a profession would be authorized to organize an OPC. Senator Drilon replied that it would depend on the regulatory framework of the profession whether or not they would be allowed to incorporate the practice. Citing lawyers as an example, he said that a lawyer needs to get five lawyers to form a corporation to practice law, hence, the same prohibition will continuously apply and the ability to form an OPC will not change it.

Senator De Lima cited Section 4 of the proposed measure which seeks to amend Section 10 of the Code, pointing out that under current laws, licensed professionals belonging to the same profession, such as lawyers and architects, are authorized to form

partnerships. She then asked if natural persons, partnerships or associations who are licensed to practice a profession would be allowed to form a corporation for the purpose of the practice of such profession. Replying in the negative, Senator Drilon said that corporations have limited liability. He pointed out that the liability of a lawyer should not be limited by the limits of the liability under a corporate entity and that his/her assets shall be made answerable for his/her mistakes. He said that allowing professionals to form a corporation with limited liability is not allowed even under the proposed amendment.

Asked if the legal regime would not be open to the formation of so-called professional corporations even under the amendments, Senator Drilon cautioned that allowing professional corporations would open the doors to a lot of uncharted issues. He stated that in the interest of the public, a partnership would be a better rule than a corporation in exercising one's profession.

Asked on the change of terminology on Section 8, page 7, line 23, from "incorporated" to "FORMED," Senator Drilon said that the change was deliberate and that it was simply a matter of style. There was no intention to change any meaning, he said.

Senator De Lima also noted the change in the use of certain phrases on Section 8, number 3, page 8, lines 3 to 5, from "The place where the principal of the office of the corporation is to be located, which must be within the Philippines" to THE SPECIFIC ADDRESS OF THE PRINCIPAL OFFICE OF THE CORPORATION, WHICH MUST BE WITHIN THE PHILIPPINES; however, the form of the Articles of Incorporation, particularly the third paragraph on page 10, lines 13 and 14, remained unchanged. Senator Drilon admitted that it is one of the amendments that is being reviewed, and which may be deleted at the appropriate time because requiring a specific address for purposes of determining the venue of the actions and jurisdiction over the corporation for tax and other purposes, may not be consistent with the ease of doing business because it will not allow the corporation to move to other premises within the same city or municipality.

Regarding page 9, lines 13 to 20, Senator Drilon clarified that there was no intention to make any substantial amendment. He explained that the paragraph was simply moved to properly situate it as

paragraph 10 to be followed by paragraph 11 which is the general power of the SEC to include other information that it may require to be stated.

On the shift from "sworn statement" to "certification" as proposed in Section 9, page 12, lines 1 to 4 and 26, and page 14, line 14, Senator Drilon clarified that without changing the substance, "sworn statement" was changed to "certification" to conform to current practices. He confirmed that the certification must still be under oath.

Senator De Lima recalled that during its hearing the previous week, the Committee on Electoral Reforms and People's Participation tackled a number of bills on political party reforms and the political party system, one of which was Senator Drilon's bill. In that hearing, she stated that some resource persons raised the issue revisiting the prohibition on private corporations from making donations under the Omnibus Election Code and the Corporation Code. Citing Section 25 of the bill, specifically number 9 on page 32, Senator De Lima asked if the Sponsor would be amenable to revisit the prohibition on private corporations to give donations in aid of any political party or candidate. She pointed out that she has no problems with respect to prohibitions against foreign corporations as it is constitutionally banned. Senator Drilon agreed that under the present state of laws, corporations are expressly prohibited from making contributions. However, he pointed out that it is common knowledge that such things happen although not expressly stated. As such, he said that he would be amenable to allowing domestic corporations to make political contributions, and that such prohibition should only be applicable to foreign corporations.

Senator De Lima stated that should it be considered, there ought to be proper safeguards or limitations or conditions that should be imposed, for instance, putting a cap on the amounts to be donated or contributed. Senator Drilon believed that limitations to the amount of contributions and other conditions should be included in the Omnibus Election Code; insofar as the Corporation Code is concerned, it would only recognize that corporations may contribute to candidates. He expressed the view that the provision would make contributions transparent so that in case a measure comes before the Body, the contributors or corporations would immediately be made aware that there could be possible conflicts of interest when they intervene in the passage of the law, if, in fact, they are contributors. He stated that he sees no

adverse policy consideration by allowing domestic corporations to make contributions.

Senator De Lima said that if the Body were to consider the deletion of the prohibition of contributions by corporations to political candidates' campaign funds, the necessary safeguards must be put in the Omnibus Election Code and not in the Corporation Code. She said that the Committee on Electoral Reforms and People's Participation would start looking into the matter and come up with an appropriate legislative measure which could be a parallel action to the bill currently under consideration.

Senator Ejercito asked whether it would be possible to do away with the limits as to the amount of contributions. Senator Drilon said that should there be a limit, it should be indicated in the Omnibus Election Code and not in the Corporation Code.

Senator De Lima agreed with Senator Drilon's suggestion that the provision that would limit campaign contributions by corporations should be in the Omnibus Election Code.

Senator Drilon said that he would propose for the removal of the prohibition to contribute to campaign funds by domestic corporations in the Corporation Code so as not to create any conflict with the provisions of the Omnibus Election Code.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

It was 4:58 p.m.

RESUMPTION OF SESSION

At 5:00 p.m., the session was resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1280

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

CHANGE OF REFERRAL

Acting on Senator De Lima's requests and with the consent of Senator Drilon, upon motion of Senator Sotto, there being no objection, the Chair referred Senate Bill No. 49 (Anti-Political Dynasty Act of 2016) primarily to the Committee on Electoral Reforms and People's Participation and secondarily to the Committee on Constitutional Amendments and Revision of Codes.

MANIFESTATION OF SENATOR DRILON

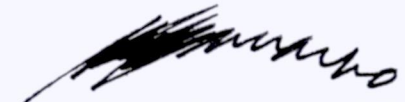
Senator Drilon manifested that on January 16, 2017, the Agreement between Japan and the Republic of the Philippines on Social Security was transmitted to the Senate for concurrence and was referred to the Committee on Foreign Relations on January 23, 2017. He informed the Body that Senator Cayetano, chair of the Committee on Foreign Relations who left the country on an official business to attend the National Prayer Breakfast in Washington, USA for the next ten days, has consented and authorized him to call and preside over the committee hearing on the said agreement, as well as to sponsor the resolution in the plenary session.

ADJOURNMENT OF SESSION

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

It was 5:04 p.m.

I hereby certify to the correctness of the foregoing.


ATTY. LUTGARDO B. BARBO
Secretary of the Senate
Barbo

Approved on February 1, 2017