



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 67**  
Monday, February 27, 2017

**SEVENTEENTH CONGRESS**  
**FIRST REGULAR SESSION**

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**CALL TO ORDER**

At 3:33 p.m., the Senate President, Hon. Aquilino “Koko” Pimentel III, called the session to order.

**PRAYER**

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

Heavenly Father, we come to You with grateful hearts today, praising You with all our being.

Forgive our faults and help us to walk closer to Your way. Help us to never stray away from Your holy light and will.

As we stand before You, we are humbly calling for Your divine grace and guidance to take us to the right path and lead us to choices that will bring You glory. Guide us in our proceedings today, that we may do what is right and just, according to Your will.

May Your peace fill our hearts and may we all continue to grow in Your light and love.

We ask these in Jesus’ Name.

Amen.

**NATIONAL ANTHEM**

The Jose Rizal University Chorale led the singing of the national anthem and thereafter rendered the song, entitled “*Paraiso.*”

**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.	Legarda, L.
Aquino, P. B. IV B.	Pacquiao, E. M. D.
Binay, M. L. N. S.	Pangilinan, F. N.
Cayetano, A. P. C. S.	Pimentel III, A. K.
Drilon, F. M.	Poe, G.
Ejercito, J. V. G.	Recto, R. G.
Escudero, F. J. G.	Sotto III, V. C.
Gatchalian, W.	Trillanes IV, A. F.
Gordon, R. J.	Villanueva, J.
Honasan, G. B.	Villar, C. A.
Hontiveros, R.	Zubiri, J. M. F.
Lacson, P. M.	

With 23 senators present, the Chair declared the presence of a quorum.



Senator De Lima was unable to attend the session as she was under detention.

#### **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. 66 (February 22, 2017) and considered it approved.

#### **ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS**

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

- Board Member Philip Lim of ABC-Albay;
- Board Member Narciso Fernando of ABC-Romblon;
- Vice Mayor Herbert Borja and members of the Sangguniang Bayan of Polangui, Albay;
- Mr. and Mrs. Olek Eriken and family from Stavanger, Norway; and
- Ladies of the Ageless Society of Davao.

Senate President Pimentel welcomed the guests to the Senate.

#### **DECLARATION OF VACANCY OF THE POSITION OF SENATE PRESIDENT PRO TEMPORE**

Upon motion of Senator Pacquiao and seconded by Senator Drilon, there being no objection, the Chair declared vacant the position of Senate President Pro Tempore.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Sotto, the session was suspended.

*It was 3:43 p.m.*

#### **RESUMPTION OF SESSION**

At 3:43 p.m., the session was resumed.

#### **NOMINATION OF SENATOR RECTO**

Upon motion of Senator Pacquiao and seconded

by Senator Escudero, there being no objection, Senator Recto was nominated for the position of Senate President Pro Tempore.

#### **CLOSING OF THE NOMINATION**

There being no other nomination, upon motion of Senator Sotto, there being no objection, the Chair declared the nomination for the position of Senate President Pro Tempore closed.

#### **ELECTION OF SENATOR RECTO AS SENATE PRESIDENT PRO TEMPORE**

With 17 senators voting for Senator Recto, the Chair declared Senator Recto as the elected Senate President Pro Tempore.

#### **OATH TAKING OF SENATOR RECTO**

Senator Recto took his oath of office as Senate President Pro Tempore before Senate President Pimentel.

#### **DECLARATION OF VACANCY IN THE CHAIRMANSHIP OF THE COMMITTEE ON HEALTH AND DEMOGRAPHY**

Upon motion of Senator Pacquiao and seconded by Senator Hontiveros, there being no objection, the Chair declared vacant the position of chairperson of the Committee on Health and Demography.

#### **ELECTION OF SENATOR EJERCITO AS CHAIRPERSON OF THE COMMITTEE ON HEALTH AND DEMOGRAPHY**

Upon nomination by Senator Pacquiao, there being no objection, Senator Ejercito was elected chairperson of the Committee on Health and Demography.

#### **DECLARATION OF VACANCY IN THE CHAIRMANSHIP OF THE COMMITTEE ON AGRICULTURE AND FOOD**

Upon motion of Senator Pacquiao, there being no objection, the Chair declared vacant the position of chairperson of the Committee on Agriculture and Food.



**MANIFESTATION OF SENATOR PANGILINAN**

For the record, Senator Pangilinan stated that he would have seconded the motion prior to its approval.

**ELECTION OF SENATOR VILLAR AS CHAIRPERSON OF THE COMMITTEE ON AGRICULTURE AND FOOD**

Upon motion of Senator Sotto, there being no objection, Senator Villar was elected chairperson of the Committee on Agriculture and Food.

**DECLARATION OF VACANCY IN THE CHAIRMANSHIP OF THE COMMITTEE ON EDUCATION, ARTS AND CULTURE**

Upon motion of Senator Pacquiao, and seconded by Senator Aquino, there being no objection, the Chair declared vacant the position of chairperson of the Committee on Education, Arts and Culture.

**MANIFESTATION OF SENATOR POE**

Senator Poe commended Senator Aquino for having done an excellent job as chairperson of the Committee on Education, Arts and Culture, and she expressed hope that his successor would continue the initiatives that he has started.

**ELECTION OF SENATOR ESCUDERO AS CHAIRPERSON OF THE COMMITTEE ON EDUCATION, ARTS AND CULTURE**

Upon motion of Senator Sotto, there being no objection, Senator Escudero was elected chairperson of the Committee on Education, Arts and Culture.

**MANIFESTATION OF SENATOR AQUINO**

At the outset, Senator Aquino stated that he took no offense to his removal as chairperson of the Committee on Education, Arts and Culture, and he believed that the change in committee chairmanship had nothing to do with the performance of his committee. He pointed out that two priority bills — *Pagkaing Pinoy Para sa Batang Pinoy* and the *Free Higher Education for All Act* — had gone through numerous hearings and consultations and have gained a lot of support from many senators. As such, he said that he would support the finalization of the measures under the leadership of Senator Escudero

and expressed hope that the bills would see approval on Second and Third Readings.

Senator Aquino said that never in his four years as a senator had he seen such support for the two bills as evidenced by the number of cosponsors and coauthors of both bills.

In closing, Senator Aquino thanked his colleagues for the opportunity to have served as the chairperson of the Committee on Education. He said that if losing the chairmanship of the committee was the price he had to pay for showing up on the streets of EDSA to talk about democracy and violence, he would gladly pay that price.

**PARLIAMENTARY INQUIRY OF SENATOR PANGILINAN**

Senator Pangilinan sought clarification on who would act as Minority Leader considering that Senator Recto, who was former Minority Leader, had been elected as Senate President Pro Tempore.

**MANIFESTATION OF SENATOR RECTO**

Senator Recto said that upon learning of the changes in the composition of the Senate leadership that day, he thought it best to accept the offer of the Majority to become Senate President Pro Tempore so that the position of Minority Leader would be opened to any senator who might be joining the Minority. He supposed that the Minority Leader would be Senator Trillanes until the Minority has decided among themselves who would be the Minority Leader.

**MANIFESTATION OF SENATOR PANGILINAN**

At this juncture, Senator Pangilinan informed the Body that he was associating himself with the Minority.

**MANIFESTATION OF SENATOR DRILON**

Senator Drilon joined Senator Pangilinan's manifestation, and as such, he proposed that the seats of the Chamber be rearranged accordingly.

**MANIFESTATION OF SENATOR AQUINO**

Senator Aquino stated that he was also joining the Minority.



## MANIFESTATION OF SENATOR HONTIVEROS

Senator Hontiveros manifested that she was joining the Minority of the Senate.

## REMARKS OF SENATOR PANGILINAN

Senator Pangilinan said that he was hoping that other members would also associate themselves and join the Minority but it seemed that only the senators who had earlier manifested their intentions to do so would be comprising the Minority bloc.

Senator Pangilinan then requested that the Minority be given time to discuss among themselves on who the Minority Leader would be and to make the necessary manifestation at a later time.

## MANIFESTATION OF SENATOR DRILON

Senator Drilon said that as result of the reorganization, the members of the Minority would be Senators Trillanes, Drilon, Hontiveros, Aquino, Pangilinan and De Lima.

Senate President Pimentel said that it would be better to wait for a formal communication from Senator De Lima regarding the matter.

## PARLIAMENTARY INQUIRY OF SENATOR PANGILINAN

Senator Pangilinan asked how the proportionate representation in the membership of all committees would be effected following the reorganization that changed the composition of the Minority from three members to five members.

The Chair said that he would give an answer to the question at a later time and instructed Secretary Barbo to proceed with the Reference of Business.

## REFERENCE OF BUSINESS

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

### MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

Letter of President Rodrigo Roa Duterte, dated 15 February 2017, submitting for the Senate's

consideration the "Agreement between the Government of the Republic of the Philippines and the Government of the Republic of Indonesia Concerning the Delimitation of the Exclusive Economic Zone Boundary" which was signed on 23 May 2014, in Manila, Philippines.

### To the Committee on Foreign Relations

#### BILLS ON FIRST READING

Senate Bill No. 1349, entitled

AN ACT NAMING THE INTERSECTION OF JOSE ABAD SANTOS AVENUE (GAPAN-SAN FERNANDO-OLONGAPO ROAD) AND THE GUAGUA-FLORIDABLANCA PROVINCIAL ROAD LOCATED AT THE BORDER OF BARANGAY SAN ANTONIO AND BARANGAY JOSE ABAD SANTOS, BOTH IN THE MUNICIPALITY OF GUAGUA, PROVINCE OF PAMPANGA AS THE WILLIAM GOLANGCO JUNCTION

Introduced by Senator Maria Lourdes Nancy S. Binay

### To the Committee on Public Works

Senate Bill No. 1350, entitled

AN ACT OFFICIALLY CREATING BARANGAY ASCOMO, MUNICIPALITY OF GUAGUA, PROVINCE OF PAMPANGA, INTO A BARANGAY FOR OTHER PURPOSES

Introduced by Senator Maria Lourdes Nancy S. Binay

### To the Committee on Rules

Senate Bill No. 1351, entitled

AN ACT REGULATING THE ESTABLISHMENT AND IMPLEMENTATION OF AGRIBUSINESS VENTURES ARRANGEMENTS (AVAS) IN AGRARIAN REFORM LANDS

Introduced by Senator Risa Hontiveros

### To the Committee on Agrarian Reform



**RESOLUTIONS**

Proposed Senate Resolution No. 301, entitled

RESOLUTION DIRECTING THE COMMITTEE ON PUBLIC SERVICES, AS PART OF ITS OVERSIGHT FUNCTION, TO CONDUCT AN INQUIRY ON THE REPORTED BUS ACCIDENT THAT TRAGICALLY CLAIMED THE LIVES OF 15 PASSENGERS, MOSTLY STUDENTS, FROM BESTLINK COLLEGE OF THE PHILIPPINES, AND TO REVIEW EXISTING LAWS AND POLICIES WITH REGARD TO ENSURING THE ROADWORTHINESS OF PUBLIC UTILITY VEHICLES AND THE COMPETENCE OF DRIVERS OF SUCH VEHICLES

Introduced by Senator Grace Poe

**To the Committee on Public Services**

Proposed Senate Resolution No. 302, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON FOREIGN RELATIONS TO INVESTIGATE, IN AID OF LEGISLATION, THE STATUS OF THE MANILA ECONOMIC AND CULTURAL OFFICE, THE COUNTRY'S REPRESENTATIVE OFFICE IN TAIWAN, IN ORDER TO PREVENT POSSIBLE VIOLATIONS OF THE ONE CHINA POLICY

Introduced by Senator Aquilino "Koko" Pimentel III

**To the Committee on Foreign Relations**

**COMMITTEE REPORTS**

Committee Report No. 37, submitted jointly by the Committees on Civil Service, Government Reorganization and Professional Regulation; and Finance, on Senate Bill No. 286, introduced by Senator Trillanes IV, entitled

AN ACT PROVIDING FOR A COST OF LIVING ALLOWANCE (COLA) FOR ALL OFFICIALS AND EMPLOYEES IN THE GOVERNMENT SECTOR AND FOR OTHER RELATED PURPOSES,

recommending its approval with amendment.

Sponsor: Senator Trillanes IV

**To the Calendar for Ordinary Business**

Committee Report No. 38, submitted jointly by the Committees on Civil Service, Government Reorganization and Professional Regulation; and Finance, on Senate Bill No. 453, introduced by Senator Trillanes IV, entitled

AN ACT GRANTING SURVIVORSHIP BENEFITS TO THE SURVIVING LEGITIMATE SPOUSE OF A DECEASED RETIRED MEMBER OF THE OFFICE OF SOLICITOR GENERAL,

recommending its approval with amendments.

Sponsor: Senator Trillanes IV

**To the Calendar for Ordinary Business**

Committee Report No. 39, submitted jointly by the Committees on Civil Service, Government Reorganization and Professional Regulation; and Finance, on Senate Bill No. 807, introduced by Senator Trillanes IV, entitled

AN ACT INCREASING TO THREE THOUSAND PESOS (P3,000) THE MONTHLY PERSONNEL ECONOMIC RELIEF ALLOWANCE (PERA) GRANTED TO GOVERNMENT EMPLOYEES, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES,

recommending its approval without amendment.

Sponsors: Senator Trillanes IV

**To the Calendar for Ordinary Business**

**COMMITTEE REPORT NO. 13  
ON SENATE BILL NO. 1256  
(Continuation)**

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1256 (Committee Report No. 13), entitled



AN ACT TO FURTHER AMEND  
REPUBLIC ACT NO. 9160, OTHER-  
WISE KNOWN AS THE ANTI-  
MONEY LAUNDERING ACT OF  
2001, AS AMENDED, AND FOR  
OTHER PURPOSES.

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

Thereupon, the Chair recognized Senator Escudero sponsor of the measure, and Senator Drilon for his interpellation.

**SUSPENSION OF SESSION**

Upon motion of Senator Sotto, the session was suspended.

*It was 4:02 p.m.*

**RESUMPTION OF SESSION**

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

**INTERPELLATION OF SENATOR DRILON**

Prefatorily, Senator Escudero said that after discussions with Senators De Lima and Drilon, several adjustments and amendments have been made to the committee report and that he would be answering the questions of Senator Drilon based on the adjustments.

Asked by Senator Drilon on the rationale for the amendments to the Anti-Money Laundering Act, Senator Escudero said that the proposed amendments were a consequence of the observations and recommendations made by representatives of the Asia-Pacific Group (APG) which is under the FATF in relation to the country's compliance with the APG-FATF rules and regulations, hopefully in time for their meeting in June 2017, and which the Committee took note of.

**SUSPENSION OF SESSION**

Upon motion of Senator Drilon, the session was suspended.

*It was 4:05 p.m.*

**RESUMPTION OF SESSION**

At 4:05 p.m., the session was resumed.

Asked by Senator Drilon on the gaps in the AMLA which the APG-FATF would wish Congress to address, Senator Escudero said that the gaps were on the following areas:

1. Coverage of casinos and allied casino businesses within the purview of the AMLA;
2. Any other threshold exceeding US\$10,000 and/or P500,000, would be as if there is no threshold from their point of view;
3. Coverage of real estate brokers; and
4. Inclusion of certain predicate offenses as enumerated in the bill.

Asked by Senator Drilon whether there are persons covered by the proposed amendments other than the casinos and real estate developers, brokers and agents, Senator Escudero said that part of the amendment includes money service business or money transfers which are part of the old law, and trust and company service providers; dealers of precious stones, jewels and/or precious metals; and dealers of high-value items. He clarified that these covered persons were already in the previous AMLA but the Committee deemed it necessary to have a separate enumeration to emphasize their inclusion in the coverage.

He said that dealers in high-value items were added after a discussion in one of the technical working group meetings that the value of items, like Rolex, is in the brand itself and not the jewels found in the watch; if the value of the watch exceeds a certain amount, it would be covered by AMLA precisely because not everything is based on the amount of jewelry in a particular good that is being sold in the country.

Senator Escudero reiterated that the inclusion of real estate developers and casinos, which were not in the original law, was based on the recommendations of the FATF, while the other covered persons, which were already in the original law, were simply clarified. He affirmed that the inclusion of dealers of high-value items or goods in excess of one million pesos was proposed by the Committee.

Asked what the proposed amendments were on covered transactions, Senator Escudero recalled that in the meetings with the APG representatives, it was made clear that the APG was only concerned with cash transactions with the exception of certain entities that deal with banking and/or other notes.



He explained that the amendments would merely clarify that only cash transactions would be covered and would need to be reported, while those that need to report other than cash transactions would be those supervised and regulated by the BSP and casinos that use other instruments in their transactions. To illustrate, he said that if a person buys a piece of real estate and pays the property with a check, the transaction would not be considered a covered transaction under the proposed measure; under the original law, anything in excess of P500,000 would have to be reported, but in the proposed amendment, only when one pays in cash and is a covered person should he/she actually report and only at that time when it would be considered a covered transaction; on the other hand, if a check was used for the payment of the transactions, it would be covered by the bank that issued the check or owns the check.

Senator Drilon said that if a check was used for the payment of the transaction, the real estate developer would have no obligation to report to the AMLC because, theoretically, it is the bank that is supposed to report a covered transaction or a suspicious transaction.

Agreeing with Senator Drilon's observation, Senator Escudero said that the Committee wanted to relieve the real estate developers of the burden of deciding and evaluating these transactions because it is the banks that are supervised by the BSP and, as such, are required to have certain standards or level of diligence with respect to such transactions. Besides, he said that the banks are already used to doing it under the existing law.

Asked on the threshold for other deemed covered transactions, Senator Escudero said that the Committee made the threshold uniform at P500,000, so that any amount in excess of P500,000 would be as if there was no threshold from the point of view of the APG and FATF.

Senator Drilon noted that in the current law, the amount in excess of P500,000 within one working day is considered a covered transaction which would prompt a report. However, he asked why the one-banking day rule has been removed in the bill and would no longer be a requirement. Senator Escudero replied that it was removed because the reckoning point would be per transaction; hence, no single transaction should exceed P500,000, otherwise it would be covered by the reportorial requirements.

Asked if deposits made five times in one banking day at P100,000 each is a covered transaction, Senator Escudero replied that it is not a covered transaction and, therefore, no reporting is required. However, he said that the bank could identify whether or not a transaction is suspicious or there is an attempt to circumvent the provisions of the AMLA.

On whether depositing P100,000 per transaction is not considered a suspicious transaction if done in the normal course of doing business, Senator Escudero affirmed. But he explained that depositing P100,000 suddenly four times is not automatically tagged as a suspicious transaction because it must go through a risk analysis process that the banking institution is required to do in identifying what a suspicious transaction is.

On whether the AMLC is empowered to set or amend the P500,000 threshold, Senator Escudero replied in the affirmative, clarifying that it is not an APG-FATF recommended, but rather a committee amendment in order to establish a guideline by which adjustments could be made without need of congressional action.

To the observation that setting the P500,000 as the threshold for reporting and in excess of P500,000 as the basis for flagging a suspicious transaction is a matter of law, Senator Escudero said that at the proper time, Senator Drilon could propose amendments to the bill, recognizing that there were indeed some constitutional bars and restrictions on delegating such power to the AMLC.

Senator Drilon said that he was willing to examine a proposal that would give such power to the AMLC provided that the appropriate standards are identified in law so that there would be no abuse of such delegated authority. Senator Escudero replied that the Committee would propose such standards if Senator Drilon would be amenable to it. He clarified that it is not one of the recommendations of the APG-FATF.

Noting that under the present law a covered transaction is a transaction in cash or other equivalent monetary instrument exceeding P500,000, Senator Drilon asked if the same standard would be followed in the reporting requirement since it is considered a suspicious transaction. Senator Escudero replied in the affirmative. He clarified that other monetary equivalent or monetary instrument only applies to



agencies, entities or corporations regulated or supervised by the BSP and casinos, but not to any person, citing, as an example, real estate brokers and dealers of precious metals or high-value items.

Senator Drilon asked what was the rationale of the Committee in providing that only cash transactions would be deemed a covered transaction as in the case of real estate developers, while the FATF, in providing the threshold, used the term "financial transactions" and did not limit the same to cash transactions. Senator Escudero disclosed that even the Members of the Senate who participated in the amendments to the bill earlier were shocked to hear from the APG-FATF that they were concerned only with cash transactions except for banks and casinos that usually use monetary instruments. He said that from his point of view, such transaction would be less burdensome on the part of the covered persons if the dichotomy is introduced between those using purely cash and equivalent monetary instruments. He added such dichotomy is compliant with APG-FATF.

As regards the threshold as far as the casinos are concerned, Senator Escudero replied that it is P500,000 or its equivalent. But Senator Drilon noted that the FATF threshold is 3,000 Euros which must be subject to reporting requirement. Senator Escudero replied that the 3,000 Euros reporting requirement is only for the Customer Due Diligence (CDD), so that anyone who bets in excess of the threshold, the CDD rule would apply and the casino should know who the bettor or player is. He said that for reportorial purposes, it is still \$10,000 or its equivalent which is what is used in other jurisdictions. He reiterated that under the bill, P500,000 is the only threshold.

Asked if a single bet of P500,000 under the proposed bill or beyond P160,000 or 3,000 Euros under the FATF standard would be considered a covered transaction that would trigger a report, Senator Escudero replied that if an individual bet, for example, in a baccarat, exceeds P500,000, it is not considered a covered transaction yet; however, when the chips are exchanged for cash and the amount exceeded P500,000, then it would trigger a report.

At this juncture, Senator Recto pointed out that it should be at the time when the bettor comes into the casino and he brings cash to exchange for chips. Senator Escudero said that it is the cage transactions that need to be reported so that when a bettor gives

cash in exchange for chips, it would be reported and if he exchanges his chips for cash or any monetary instruments, it would be reported. He added that every cage transaction in excess of P500,000 will trigger the reportorial requirement.

Asked by Senator Recto if a bettor who went to a casino and paid through check would be reported, Senator Escudero replied that since monetary instrument covers casino, that bettor would be reported too. He said that chips exchanged for a check would also be reported because the exemption of cash transaction, as enumerated in the proposed dichotomy, would be entities supervised by the BSP and casinos, like money changers, banks or anyone who pays in checks or receives a check as well as wire transfers.

Asked what the obligation is of the casino if a customer who went to the cage exchanged his cash in the amount of P300,00 for chips, Senator Escudero replied that the casino is not obliged to report it but under the proposed bill, all covered persons, including casinos, are required to have a CDD or what is currently called as "know your client" rule.

Senator Drilon clarified that he had no problems with whatever amount the Sponsor would set, but that he was just interested in making sure that the bill is compliant with the standards set forth by the FATF. He said that from his view, there are two thresholds: the FATF recommendation of 3,000 Euros, which is roughly equivalent to P160,000; and P500,000 as proposed in the bill, so that if a player goes to the cage and purchases chips amounting to P300,000, it is within the threshold amount imposed by the FATF but it is outside of the threshold amount indicated in the proposed bill. He then asked what is the obligation of the casino.

Senator Escudero replied that the CDD threshold is 3,000 Euros or roughly P160,000, which is the APG-FATF standard; on the other hand, the Committee seeks to apply one reportorial standard which is in excess of the APG-FATF requirement. Senator Drilon stressed that if it is in excess of the APG-FATF requirement, the FATF may consider the amendment non-compliant. Senator Escudero maintained that the amendment is actually over-compliant.

Saying that he was not disputing the amounts, Senator Drilon said that he was just interested in finding out what the threshold is, as far as the casinos are concerned because he wanted to be assured that



what the bill is proposing is in compliance with the FATF standard. He said that assuming that the bill is enacted into law, its provision would be that there is no reporting requirement if the amount is below P500,000 and if exceeds P500,000, there is a reporting requirement. He noted, however, that the recommendation of the FATF is that the threshold is 3,000 Euros or roughly P160,000.

Senator Escudero pointed out that in other jurisdictions, there are two threshold amounts — \$10,000 for reportorial obligations of a covered person; and 3,000 Euros as cited earlier for the CDD rule to apply. He said that in the Philippines, the Committee is proposing only one threshold amount which is P500,000, for both reportorial requirement and for purposes of applying the CDD rule. He said that the FATF simply recommends that if the transaction exceeds 3,000 Euros, the CDD rule would apply, but in the Philippines, based on the proposal, regardless of the transaction, if one is a covered person, he should apply the CDD rule on all his customers.

Senator Drilon maintained that if the purpose is to comply, the proposed threshold amount of P500,000 is not compliant, because if the transaction in the case is less than P500,000 under the proposed measure, there would be no reporting requirement, while under the FATF recommendation, if it exceeds P160,000, it should be a covered transaction. He suggested that the Sponsor study the proposed measure again.

Senator Escudero promised that he would revisit the proposed bill and clarify the matter with the representatives of the APG-FATF.

Senator Drilon said that he also finds vague and worrisome the term “suspicious transaction” which, under the bill, is defined as one where “there are circumstances determined to be suspicious by the Anti-Money Laundering Council (AMLC).” He cautioned that by being vague, the measure could be attacked for lack of comprehensible standard that common intelligence would require an interpretation of what it all means.

Senator Escudero agreed with Senator Drilon’s observation, saying that it was also the subject matter of Senator De Lima’s interpellation. He said that during the period of amendments, the Committee would propose to delete Item 7 under Section 3 (B-1) which defines suspicious transactions.

On the proposal to include other crimes as predicate offenses, Senator Drilon noted that the amendment enumerates laws, one of which is the National Internal Revenue Code (NIRC), any violation of which would be considered as a predicate offense. For instance, he asked if an income tax return with entries that have been disallowed which, in a broad sense, is a violation of the NIRC would be considered as a predicate offense that would trigger the AMLC to petition the Court of Appeals to freeze the account of the taxpayer.

Senator Escudero clarified that one of the enumerations of the FATF was “tax crimes related to direct and indirect taxes,” but the Committee would propose the specific provisions of the laws that were enumerated, the violation of which would be considered as a predicate offense. He said as far as the NIRC is concerned, violations of Sections 254, 255, 257 up to Sections 264 and 265 would be considered as predicate offense.

Senator Drilon asked that he be provided with the amendments proposed in Section 4 of the bill in order to closely examine it. Since it may trigger the AMLC to examine and even petition to freeze accounts, he said that it would be very critical to know the coverage of the predicate offenses so that amendments could be proposed. Senator Escudero said that he would give Senator Drilon a copy of the proposed amendments after his interpellation.

Senator Drilon noted that under Section 10 of the bill, a freeze order is authorized against any monetary instrument or property that is in any way related to any predicate offense, and he believed that the predicate offense is too broad that any relationship to that predicate offense would subject the depositor to the power to freeze, among others. He feared that the overbreadth doctrine would apply to the situation, so broad that it becomes constitutionally infirm.

Senator Escudero clarified that one of the Committee’s proposed amendments is to remove the *motu proprio* power of the AMLC to issue a freeze order for 30 days because of the constitutional and due process hindrances that it may face. Besides, he admitted it is not a FATF recommendation anyway.

Asked on the predicate offenses recommended by FATF, Senator Escudero enumerated the following: participation in an organized criminal group and



racketeering; terrorism, including terrorist financing; trafficking in human beings and migrants smuggling; sexual exploitation, including sexual exploitation of children; illicit trafficking in narcotic drugs and psychotropic substances; illicit arms trafficking; illicit trafficking in stolen and other goods; corruption and bribery; fraud; counterfeiting currency; counterfeiting and piracy of products; environmental crime; murder, grievous bodily injury; kidnapping, illegal restraint and hostage-taking; robbery or theft; smuggling, including in relation to customs and excise duties and taxes; tax crimes related to direct taxes and indirect taxes; extortion, perjury, piracy; and insider trading and market manipulation.

He added that the FATF recommendations included the catch-all phrase, "When deciding on the range of offenses to be covered as predicate offenses under each of the categories listed above, each country may decide, in accordance with its domestic law, how it will define those offenses and the nature of any particular elements of those offenses that make them serious offenses."

Senator Drilon said that he would await the proposed amendments to be submitted to plenary by Senator Escudero, at which time, he would ask further questions. Senator Escudero said he would welcome any improvement on the bill.

Asked if a private person can file a complaint with the AMLC, Senator Escudero replied that a private person can file a complaint taken under oath with the AMLC. He stated that while such provision is neither in the present AMLA nor in the bill, it is how the AMLC has been doing its business since it was created, entertaining complaints and even media reports that could trigger an investigation but not a freeze order against the account of the subject of complaint. He reiterated his earlier proposal to delete the *motu proprio* power of the AMLC to freeze an account for 30 days.

Senator Drilon also noted that the bill empowers the AMLC to investigate, issue subpoenas and administer oath for a more effective and efficient production of witnesses and documents. He then asked if a bank deposit could be the subject of a subpoena, and if the power to issue subpoena includes the power to subpoena, for instance, bank accounts. He observed that under the proposed measure, such power is too broad that it could be interpreted as an exception to the Bank Secrecy Law.

Senator Escudero said that according to the AMLC, bank accounts are still covered by the Bank Secrecy Law and therefore would not be covered by the AMLC's subpoena powers. He said that the Committee would be open to clarifying the provision to ensure that there is no overbreadth and no abuse of the provision insofar as directly issuing a subpoena to produce bank records from any person is concerned.

Senator Escudero stated that the agreement was to craft an amendment to clarify the issue in order to be fair to AMLC which has no intention of issuing a subpoena to require the production of bank records or bank accounts. Given the explanations, Senator Drilon expressed confidence that the intention would be reflected in the amendment as promised.

Asked whether the authority to issue freeze orders on the part of the AMLC would still be amended, Senator Escudero replied that the amended version of the measure which he would provide Senator Drilon would no longer contain the proviso. He explained that the only difference in the current proposal would be that the AMLC could directly file a petition not necessarily always through the Office of the Solicitor General and that any freeze order would still be issued by a court. Senator Drilon offered no objection to the proposal for AMLC to be directly authorized to file the petition without going through the Solicitor General.

Senator Drilon noted that the proposal seeks to add, as a power of the AMLC, to check compliance with the law by covered persons not under any supervising authority. Asked to identify the persons referred to as "covered persons," Senator Escudero replied that the phrase refers to persons who are not specifically supervised by the BSP as they are only required to register, for instance, money changers. He stated that under the proposed amendments to the BSP charter, money changers are included among the entities to be supervised by the BSP. He explained that without any supervising authority for a particular covered person, such as dealers in high-value goods, the AMLC could check their compliance directly given that there is no supervising authority it can coordinate with. Senator Drilon agreed, but he pointed out that the particular businesses are also covered persons, like money business service or money transfer companies, dealers of precious stones, jewelries, trust and company services, dealers in high-value items and real estate developers.



Asked to identify the persons not covered or not under any supervising authority that AMLC can include under its jurisdiction, Senator Escudero said that dealers in precious stones, jewels and/or precious metals, dealers in high-value items of goods, and real estate developers are entities not supervised by any supervising authority but are required by the BSP to register.

Senator Drilon asked whether money changers are part of "covered persons" as he noted that they were not mentioned in lines 10 and 11 of page 9, Senator Escudero clarified that money changers would fall under the proviso because they are not yet specifically under the supervisory authority of the BSP. He said that absent any supervisory authority, the AMLC would directly monitor their compliance.

On page 12, line 19, Senator Drilon pointed to the phrase "by the AMLC" in the proviso mandating for the exclusive authority of the AMLC to file a petition with the court, which he assumed would be deleted because it was bracketed. He asked whether it was the intention of the measure to authorize other petitioners. In reply, Senator Escudero said that the Committee would restore the phrase at the appropriate time.

Senator Drilon pointed out that anti-money laundering authorities in the United States, Canada and Australia do not have the power to freeze accounts which is considered a judicial function rather than an administrative function because it involves the deprivation of property. Thus, he said that page 12, line 32 and the whole of page 13 should be appropriately amended because it refers to the grant of power to the AMLC to freeze.

#### SUSPENSION OF SESSION

Upon motion of Senator Drilon, the session was suspended.

*It was 5:05 p.m.*

#### RESUMPTION OF SESSION

At 5:06 p.m., the session was resumed with Senate President Pro Tempore Recto presiding.

Upon resumption, Senator Drilon cited Section 9 which seeks to amend Section 11 of the existing law. He said that under the proposed amendment, the

AMLC may inquire into or examine any particular deposit or investment, including related accounts, with any banking institution or non-bank financial institution upon order of the Court of Appeals based on an *ex parte* application in cases of violations of the Act when there is reasonable ground to suspect that the deposits or investments, including related accounts involved, are related to a predicate offense. He noted that the standard of "probable cause" was changed to standard of "reasonable ground to suspect." Asked on the difference between the two standards, Senator Escudero explained that the subject matter was discussed during the interpellation of Senator De Lima who suggested to either revert to "probable cause" or to simply use the phrase "reasonable ground to suspect" which is tantamount or equivalent to probable cause. He said that in the latest version of the bill, the phrase "reasonable ground to believe" was used to also mean equivalent or tantamount to probable cause. He agreed to Senator Drilon's suggestion to retain the existing provision.

On another matter, Senator Drilon asked regarding the use of the word "randomly" in the proviso where the AMLC is given the power to randomly inquire into or examine any deposit investment, trust, or other accounts. Senator Escudero replied that it was used to refer to the BSP and not to the AMLC. He clarified that the word "randomly" was used to mean that the BSP cannot use its supervisory powers to look into a specific account targeting a specific depositor but that it is simply part of their sampling or supervisory powers. Senator Drilon admitted that he was not comfortable with the proviso, whether or not it is a power to look into specific accounts, whether or not there is prohibition to look into specific accounts or whether it is a broad power to randomly inquire or examine any deposit. He said that there are no standards that are indicated and that it would even be more problematic considering that the definition of suspicious transactions includes anything deemed suspicious by the AMLC. Senator Escudero admitted that the provision was not an imposition from FATF but was a suggestion from the BSP, which is also part of the proposed amendment to the BSP Charter. He said that he is amenable to revisiting the provision since it is not a compliance requirement of the FATF.

On Section 10 which authorizes the AMLC to retain twenty percent (20%) of total forfeited assets, Senator Drilon asked how much was the retained



amount on the forfeited assets for 2016. Senator Escudero stated that as of December 2016, the total value of criminal proceeds civilly forfeited as a result of AMLC action was P887,940,874.35. Given the enormity of accounts which may be possibly forfeited, he said that the AMLC has put a cap by retaining the equivalent of twice the higher budgetary priority in the past two years, and since the AMLC budget in 2016 was P40 million and P48 million for 2017, the 20% would not apply to the entire amount of P887 million.

Asked if the cap could entitle AMLC to roughly P90 million, Senator Escudero replied in the affirmative, saying that the funds could either be for retention or as an income. But Senator Drilon asked Senator Escudero if he was suggesting that AMLC be authorized to retain P90 million, the utilization of which would not be subject to congressional scrutiny.

Senator Escudero said that he would always be in favor of any budget appropriation or use of retained funds as long as it was authorized by Congress subject to certain limits. Also, he said that he is amenable to any suggestion, particularly if the earmarking of certain funds from forfeited assets would be deemed excessive or inappropriate since the provision was not FATF-recommended.

To the imposition of administrative sanctions under subsection 15, Senator Drilon noted that the entire two paragraphs were deleted including the most significant part which is the requirement of due notice and hearing. Thereupon, he asked why the phrase "after due notice and hearing" was deleted and substituted it with "full discretion" on the part of AMLC.

#### **SUSPENSION OF SESSION**

Upon motion of Escudero, the session was suspended.

*It was 5:20 p.m.*

#### **RESUMPTION OF SESSION**

At 5:21 p.m., the session was resumed.

Upon resumption, Senator Escudero admitted that the deletion was an oversight and promised to make the corresponding adjustment.

On Section 9 which allows the AMLC to inquire into bank deposits even without a court order, Senator Drilon asked for an enumeration of the offenses that were included in the original law and an offenses proposed to be added in the enumeration.

#### **SUSPENSION OF SESSION**

Upon motion of Escudero, the session was suspended.

*It was 5:24 p.m.*

#### **RESUMPTION OF SESSION**

At 5:24 p.m., the session was resumed.

Senator Escudero stated that under the existing law, the offenses include: kidnapping for ransom; dangerous drugs; hijacking; destructive arson; murder; terrorism; conspiracy to commit terrorism; and financing of terrorism; in the proposed bill, the following are predicate offenses: anti-graft and corrupt practices; plunder; swindling; bribery, malversation of public funds; human trafficking; Migrant Worker's Act; anti-child pornography; child abuse; violations of Securities Regulation Code; cybercrime; and data privacy.

Asked which of the 12 additional offenses were recommended by FATF, Senator Escudero answered that there was none but that the AMLC was suggesting to add them as predicate offenses in the proposed bill.

Senator Drilon asked Senator Escudero if he would agree that examining bank deposits is akin to a search warrant.

#### **SUSPENSION OF SESSION**

Upon motion of Escudero, the session was suspended.

*It was 5:27 p.m.*

#### **RESUMPTION OF SESSION**

At 5:28 p.m., the session was resumed.

Senator Escudero stated that according to the AMLC, the authority to inquire into bank deposits is not tantamount to search and seizure which requires a court order; hence, they can only examine the bank accounts but they cannot secure copies thereof.



Senator Drilon maintained that examining bank deposits is in the nature of a search warrant because it involves inquiring into the bank deposits of a depositor. He pointed out that it is essential to know whether or not the authority to inquire into bank deposits is akin to a search warrant; if it is, certain standards under the Constitution must be followed before allowing search in one's property because the privacy of one's premises is inviolable.

Senator Escudero cited the authority that the AMLC was invoking: the Supreme Court decision in the case of *Republic of the Philippines vs. Eugenio* (G.R. No. 174629; February 14, 2008), where in its briefer, the Court said:

"In addition, the bank inquiry order under the AMLA is an extraordinary provisional relief which the AMLC may avail of to effectively combat and prosecute money laundering offenses. Clearly, the quantum of evidence required for bank inquiry order should not be compared to the requirements of search or arrest warrants because they are not of the same nature.

"Considering the foregoing, the lower quantum of evidence required for the issuance of a bank inquiry order is proper."

Saying that the *Eugenio* case might be applicable to the issue, Senator Escudero gave assurance that he would compare notes with authorities and with Senator Drilon to ensure non-violation of the Constitution. Consequently, Senator Drilon said that he would await the final position insofar as the particular issue is concerned, noting that it is not among the provisions which require compliance with the standards set forth by FATF.

Senator Escudero stated for the record that the matter is an existing provision with respect to certain predicate offenses but that since the proposed amendment simply seeks to include additional predicate offenses, he would review the provision itself, not only the additional predicate offenses.

Senator Drilon pointed out that the proposed amendment has changed the standard or quantum of evidence from probable cause to reasonable ground to suspect, the reason why he was asking for the difference between the existing law and the proposed amendment. He said that based on his research, a reasonable ground to suspect requires a lower quantum of proof. In fact, he said that a reasonable suspicion is the standard required before a police

officer may stop and question, or stop and frisk an individual against his/her will. He averred that when the standard of evidence is lowered, it would allow more power to AMLC.

Stating that the Anti-Money Laundering Law seeks to ensure that the government would align its financial system with international standards, he clarified that he was not objecting to the bill as he believed it is relevant. However, he expressed hope that the AMLC would take heed of the constitutional mandate of protecting citizens from the unbridled power of the State against individual liberties.

Senator Drilon believed that the Senate ought to be concerned over the ability of the State to exercise its vast power versus the protection of the rights of citizens under the Constitution such as the right against unreasonable search and seizure. Senator Escudero agreed, adding that his Committee would be reverting to either "reasonable ground to believe" or "probable cause" rather than "reasonable ground to suspect." For the sake of uniformity, he said that the Committee changed the phrase "unlawful activity" to refer specifically to "predicate offenses" to remove any doubt as to what is exactly being referred to as well as to make the powers more limited to only specific offenses or crimes.

In closing, Senator Drilon said that he was suspending his interpellation but will await proposed amendments on the bill on which he may or may not have any further questions.

For his part, Senator Escudero thanked Senator Drilon not only for his suggestions but also for sharing his experience and wisdom with respect to the measure with the view of improving it and making it compliant not only with the FATF but with the constitutional provisions as well.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1256**

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

#### **COMMITTEE REPORT NO. 29 ON SENATE BILL NO. 1305**

(Continuation)

Upon motion of Senator Sotto, there being no

*MS*



objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1305 (Committee Report No. 29), entitled

AN ACT INCREASING THE MATERNITY LEAVE PERIOD TO ONE HUNDRED TWENTY (120) DAYS FOR FEMALE WORKERS IN THE GOVERNMENT SERVICE AND THE PRIVATE SECTOR WITH AN OPTION TO EXTEND FOR AN ADDITIONAL THIRTY (30) DAYS WITHOUT PAY, PROVIDING A PARENTAL LEAVE PERIOD FOR ADOPTIVE PARENTS, AND GRANTING AN ADDITIONAL THIRTY (30) DAYS FOR SOLO MOTHERS, AND FOR OTHER PURPOSES.

Senator Sotto stated that the parliamentary status was the period of individual amendments.

Thereupon, the Chair recognized Senator Hontiveros, sponsor of the measure.

#### HONTIVEROS AMENDMENTS

As proposed by Senator Hontiveros, there being no objection, the Body approved the following amendments, one after the other:

1. On page 2, line 24, after the period (.), insert the following proviso: *PROVIDED, FURTHER, THAT NO NOTICE SHALL BE NECESSARY IN THE EVENT OF A MEDICAL EMERGENCY;*
2. On page 3, line 26, insert the proviso: *PROVIDED, FURTHER, THAT NO NOTICE SHALL BE NECESSARY IN THE EVENT OF A MEDICAL EMERGENCY;*
3. On page 6, line 3, after the word "salary," insert *OR OTHERWISE AMOUNT TO CONSTRUCTIVE DISMISSAL;*
4. On the same page, line 5, after the acronym "SSS," insert *AND GENDER OMBUD OF THE COMMISSION ON HUMAN RIGHTS (CHR);*
5. Insert a new Section 14 to read as:

WHOEVER FAILS OR REFUSES TO COMPLY WITH THE PROVISIONS OF THIS ACT SHALL BE PUNISHED BY A FINE OF NOT LESS THAN FIVE THOUSAND PESOS (P5,000.00) NOR MORE THAN TWENTY THOUSAND PESOS (P20,000.00) AND IMPRISONMENT FOR NOT LESS THAN

SIX (6) YEARS AND ONE (1) DAY NOR MORE THAN TWELVE (12) YEARS OR BOTH. IF THE ACT OR OMISSION PENALIZED BY THIS ACT BE COMMITTED BY AN ASSOCIATION, PARTNERSHIP, CORPORATION OR ANY OTHER INSTITUTION, ITS MANAGING HEAD, DIRECTORS OR PARTNERS SHALL BE LIABLE TO THE PENALTIES PROVIDED IN THIS ACT FOR THE OFFENSE; and

6. Renumber the succeeding sections accordingly.

#### SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

*It was 5:41 p.m.*

#### RESUMPTION OF SESSION

At 5:42 p.m., the session was resumed.

#### TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

Upon motion of Senator Sotto, there being no objection, the Body closed the period of individual amendments.

#### APPROVAL OF SENATE BILL NO. 1305 ON SECOND READING

Submitted to a vote, there being no objection, Senate Bill No. 1305 was approved on Second Reading.

#### SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1305

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

#### COMMITTEE REPORT NO. 36 ON HOUSE BILL NO. 4631

*(Continuation)*

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of House Bill No. 4631 (Committee Report No. 36), entitled

*PSK*

AN ACT RENEWING FOR ANOTHER TWENTY-FIVE (25) YEARS THE FRANCHISE GRANTED TO REPUBLIC BROADCASTING SYSTEM, INC., PRESENTLY KNOWN AS GMA NETWORK, INC., AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7252, ENTITLED "AN ACT GRANTING THE REPUBLIC BROADCASTING SYSTEM, INC. A FRANCHISE TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN RADIO AND TELEVISION BROADCASTING STATIONS IN THE PHILIPPINES."

Senator Sotto stated that the parliamentary status was the period of committee amendments.

Thereupon, the Chair recognized Senator Poe, sponsor of the measure.

**COMMITTEE AMENDMENTS**

As proposed by Senator Poe, there being no objection, the following committee amendments were approved by the Body, one after the other:

*Page 2*

- 1. On line 10, between the words "SATELLITE" and "OR," insert a comma(,) and the word TERRESTRIAL;

*Page 3*

- 2. Reword Section 4 to read as:

*RESPONSIBILITY TO THE PUBLIC.* -- THE GRANTEE SHALL PROVIDE, FREE OF CHARGE, ADEQUATE PUBLIC SERVICE TIME WHICH IS REASONABLE AND SUFFICIENT TO ENABLE THE GOVERNMENT, THROUGH THE BROADCASTING STATIONS OR FACILITIES OF THE GRANTEE, TO REACH THE PERTINENT POPULATION/S OR PORTIONS THEREOF ON IMPORTANT PUBLIC ISSUES AND RELAY IMPORTANT PUBLIC ANNOUNCEMENTS AND WARNINGS AS NECESSITY, URGENCY OR LAW MAY REQUIRE; PROVIDE AT ALL TIMES SOUND AND BALANCED PROGRAMMING; PROMOTE PUBLIC PARTICIPATION; ASSIST IN THE FUNCTIONS OF PUBLIC INFORMATION AND EDUCATION; CONFORM TO THE ETHICS OF HONEST ENTERPRISE; PROMOTE AUDIENCE SENSIBILITY AND

EMPOWERMENT THROUGH, BUT NOT LIMITED TO,CLOSED CAPTIONING; AND NOT USE ITS STATION OR FACILITIES FOR THE BROADCASTING OF OBSCENE AND INDECENT LANGUAGE, SPEECH, ACT OR SCENE; OR FOR THE DISSEMINATION OF DELIBERATELY FALSE INFORMATION OR WILFULL MISREPRESENTATION, TO THE DETRIMENT OF THE PUBLIC INTEREST, OR TO INCITE, ENCOURAGE, OR ASSIST IN SUBVERSIVE OR TREASONABLE ACTS;

- 3. On line 23, replace the semicolon (;) with a colon (:);

*Page 4*

- 4. On line 2, between the words "FACILITIES" and "during," insert OF THE GRANTEE;
- 5. On line 18, after the word " Nonacceptance," insert OF THE GRANTEE;

*Page 5*

- 6. On line 20, replace the phrase "cut off from" with NOT ALLOW TO BE AIRED;
- 7. On line 21, delete the words "the air."

*At this juncture, the session was suspended and was resumed shortly thereafter with Senate President Pimentel presiding.*

*Page 7*

- 8. On line 17, after the word "FRANCHISE," insert a comma (,) and THE LIFE SPAN OF THE FRANCHISE.

**REQUEST OF SENATOR SOTTO**

At this juncture, Senator Sotto asked how Section 7 would be read as amended.

**SUSPENSION OF SESION**

Upon motion of Senator Poe, the session was suspended.

*It was 5:49 p.m.*

**RESUMPTION OF SESSION**

At 5:50 p.m., the session was resumed.

Senator Poe read the amended Section 7, to wit:

"SEC. 7. *Acceptance and Compliance.* -- This franchise shall become effective upon



acceptance given in writing by the grantee to the Congress of the Philippines, through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate within sixty (60) days from the effectivity of this Act. Upon giving such acceptance, the grantee shall exercise the privileges granted under this Act. Nonacceptance of the grantee shall render the franchise void."

### **INQUIRY OF SENATOR DRILON**

Senator Drilon sought clarification as to whether the proposed amendment to Section 10 of the bill, which was written in bold letters, was being amended considering that in the present franchise, the franchisee may not transfer, merge or yield control of the corporation grantee without the prior approval of the Congress of the Philippines. Senator Poe replied that the proposed amendment was not introduced.

Asked whether this meant that in case there is a change of ownership, the standard provision which says "it is not effective without the prior approval of Congress" stands albeit not necessarily in the form of a law. Senator Poe replied in the affirmative.

### **TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS**

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

### **RECTO AMENDMENTS**

Preliminarily, Senator Recto sought clarification on whether the words "approval" and effectivity" as used in the bill have the same meaning considering that Section 1 of the bill states that "the franchise is renewed for another twenty-five (25) years from the approval of this Act"; on the other hand, Section 6 states that "the franchise shall be in effect for a period of twenty-five (25) years from the effectivity of this Act, while Section 16 includes the proviso that "the Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation."

Believing that the word "effectivity" would be the more appropriate term than "approval," Senator Poe said that for the sake of consistency, it would be better to use "effectivity" in the bill instead.

As proposed by Senator Recto and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other:

1. On page 2, line 18, replace the word "Approval" with EFFECTIVITY;
2. On page 4, after Section 7, insert a new Section 8 to read as follows:

SEC. 8. *TAX PROVISIONS.* – THE GRANTEE, ITS SUCCESSOR OR ASSIGN SHALL CONTINUE TO BE SUBJECT TO ALL APPLICABLE TAXES, DUTIES, FEES OR CHARGES AND OTHER IMPOSITIONS UNDER THE NATIONAL INTERNAL REVENUE CODE OF 1997, REPUBLIC ACT NO. 8424, AS AMENDED, THE LOCAL GOVERNMENT CODE OF 1991, REPUBLIC ACT NO. 7160, AS AMENDED, AND OTHER APPLICABLE LAWS.

Senator Poe said that she accepted the amendment with the clarification that GMA Network was not asking for any exemption or preferential tax treatment that departs from the current tax regime and specific laws. She explained that the Committee deleted the tax provision on the belief that the National Internal Revenue Code, RA 8424, as amended, adequately addresses the tax regime that governs the sale of services of the grantees of congressional franchise with a VAT; and the income of the grantees derived from such sale under Title 2 of the said code. With regard to local taxes, she said that local tax ordinances that were approved pursuant to Section 137 and 151 of the Local Government Code or RA 7160, govern the local taxation applicable to congressional franchise grantees engaged in broadcast services, thus, specific laws already deal with national and local taxation grantees of broadcast franchises.

Asked by Senator Drilon on the difference between the present tax treatment in the current GMA 7 franchise and the tax treatment in the proposed measure, Senator Recto explained that GMA 7 would continue to pay whatever taxes they are currently paying. He said that his concern was that the Committee deleted the tax provision in the bill although it was not its intention of exempting GMA 7 from paying any taxes, and that it would look funny not to have the tax provision since all franchises that passed through Congress have it. He said that the deletion of the entire tax provision of the bill extending the franchise of GMA 7 might give an



impression that GMA 7 would be exempted from taxes expressly provided under its original franchise. He added that since the franchise is in the nature of a contract between the franchisee and the government, Congress should not delete but instead provide a section clearly expressing the intent of Congress that GMA's revenues would be taxed during the lifetime of the franchise.

Senator Drilon said that there is a principle in congressional franchises that whatever is granted in one franchise is *ipso facto* enjoyed by the other franchise holders. As to how the *ipso facto* clause would apply to the particular case, Senator Recto said that Section 13 of the bill provides for an equality clause which is similar to an *ipso facto* clause. However, he clarified that not all *ipso facto* clause or equality clause in a franchise would be the same with other franchises in its applicability. To illustrate, he said that the scope of the franchise does not change.

Senator Drilon said that he was just interested in the tax treatment provision and whether the proposed tax provision would be applicable to the franchise of ABS-CBN, TV5 and every other network. Senator Recto replied in the affirmative.

Senator Drilon said that he would just like to put on record that there is no change or favorable tax preference or treatment in favor of GMA network.

Asked by the Chair whether it would change the tax treatment of other TV stations, Senator Recto replied in the negative. He said that the bill did not have a tax provision and that he was simply proposing a tax provision that would be the same for all TV networks, which means that they would pay the same taxes.

As to Senator Drilon's query whether there is no tax provision on the current GMA 7 franchise bill, Senator Recto said that there was a tax provision in the original GMA franchise law but which was deleted in the proposed measure extending its franchise.

Senator Poe clarified that the equality clause does not apply to taxes but to benefits in terms of regulatory requirements. She added that it is already in the general tax provisions which would apply to any other franchise holders and that it would not matter whether or not they had it in their original franchise.

Senator Recto said that what Senator Poe meant was that if the Senate would put in a different provision, no equality clause would apply and that, in effect, would favor GMA network if it was done that way.

Asked by the Chair whether GMA would be taxed with or without the amendment, Senator Poe replied in the affirmative.

Senator Recto, however, pointed out that he has yet to see a franchise law passed by Congress without a tax provision. He said that the original franchise of GMA 7 had a tax provision and it would be odd if the franchise bill extending its life for another 25 years would not have one.

As to the Chair's query whether a different tax regime was being imposed, Senator Recto said that it would be the same, a franchise tax, amended by a law which imposed a VAT, with income tax, and all other relevant taxes due them, including local government taxes. He said that GMA 7 is treated the same way as any other network.

#### CLEAN COPY

Senate President Pimentel directed the Secretariat to prepare a clean copy of the bill incorporating the approved committee and individual amendments to be used for the following day's session.

#### SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 4631

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

#### COMMITTEE REPORT NO. 19 ON SENATE BILL NO. 1277

(Continuation)

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1277 (Committee Report No. 19), entitled

AN ACT ESTABLISHING THE FREE  
INTERNET ACCESS PROGRAM IN  
PUBLIC SPACES IN THE COUNTRY  
AND APPROPRIATING FUNDS  
THEREOF.



Senator Sotto stated that parliamentary status of the measure was the period of individual amendments.

Thereupon, the Chair recognized Senator Aquino, sponsor of the measure.

## AQUINO AMENDMENTS

As proposed by Senator Aquino, there being no objection, the Body approved the following amendments, one after the other:

### Page 2

1. After line 12, insert the following paragraph:
 

AT THE MINIMUM, THE PROGRAM SHALL BE MADE AVAILABLE IN AREAS WITHIN THE FOREGOING PUBLIC PLACES WHERE MAXIMUM USE AND ACCESS TO THE BENEFITS SHALL BE ENSURED, SUCH AS BUT NOT LIMITED TO, COMPUTER LABORATORIES AND LIBRARIES IN PUBLIC EDUCATION INSTITUTIONS AND STATE UNIVERSITIES AND COLLEGES, MAIN LOBBIES AND HALLWAYS OF PUBLIC BUILDINGS OR TRANSPORT TERMINALS, AND AT MAIN ASSEMBLY POINTS IN PUBLIC PARKS, HOSPITALS AND HEALTH CENTERS. APPROPRIATE SIGNAGE SHALL BE PLACED IN CONSPICUOUS AREAS OF SITES WITH ACCESS TO THE FREE INTERNET SERVICE PROVIDED BY THE PROGRAM;
2. On line 16, after the word "permits," add a comma ( , ) and the word LICENSES;
3. On the same line, replace the words "certificates pertinent to" with the phrase CLEARANCES NEEDED FOR THE CONSTRUCTION OF INFRASTRUCTURE OR INSTALLATION OF EQUIPMENT IN COORDINATION WITH THE RESPECTIVE ISSUING GOVERNMENT AGENCIES AND DEPARTMENTS FOR;
4. On line 21, after the word "Program," add a new sentence to read: THE REVENUE COLLECTED FROM LOCAL FEES, CHARGES AND OTHER LOCAL IMPOSITIONS SHALL INURE SOLELY TO THE BENEFIT OF, AND BE SUBJECT TO DISPOSITION BY THE LOCAL GOVERNMENT UNITS;
5. On line 22, replace the phrase "conduct the necessary public consultations and consultations with" with COORDINATE WITH THE;

6. On line 23, delete the comma ( , ) after "(NGAS)" and replace it with the word AND;
7. On the same line, after "(LGUs)", insert the phrase AND CONDUCT THE NECESSARY CONSULTATIONS WITH;
8. Still on the same line, replace the word "regarding" with the word FOR;
9. On line 28, after the word "issuances," add the words AND AGREEMENTS;
10. On line 29, before the word "released," insert the word ISSUED OR;
11. On line 32, insert a new section on private property ownership, to read as follows:

SECTION 7. PRIVATE PROPERTY OWNERSHIP. – THE RIGHT TO PRIVATE PROPERTY SHALL BE RESPECTED IN THE IMPLEMENTATION OF THE PROGRAM. IN CASE THE CONSTRUCTION OF ANY INFRASTRUCTURE OR INSTALLATION OF EQUIPMENT SHALL INVOLVE OR AFFECT PRIVATELY-OWNED LAND OR PROPERTY, THE DICT SHALL ENSURE THAT THE NECESSARY PUBLIC CONSULTATIONS ARE HELD WITH AFFECTED OR CONCERNED PARTIES, SUCH AS HOMEOWNER AND HOMEOWNERS ASSOCIATIONS, NON-GOVERNMENT ORGANIZATIONS AND PEOPLE'S ORGANIZATIONS, AND LOCAL GOVERNMENT UNITS BEFORE THE PROGRAM IS IMPLEMENTED IN THEIR RESPECTIVE JURISDICTIONS. SUCH PUBLIC CONSULTATIONS SHALL CONFORM TO THE MANNER AS STATED IN REPUBLIC ACT NO. 9904, OTHERWISE KNOWN AS THE "MAGNA CARTA FOR HOMEOWNERS," AND AS SPECIFIED IN RULE XI, ARTICLE 54 OF THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE "LOCAL GOVERNMENT CODE OF 1991."

12. Renumber the succeeding sections accordingly;

### Page 3

1. On line 6, replace the word "proscribe" with the phrase PROHIBIT ANY UNFAIR METHODS OF COMPETITION AND;
2. After line 17, insert the following new Section to read as follows:

SECTION \_\_\_\_\_. PUBLIC-PRIVATE PARTICIPATION. – TO PROMOTE AN EFFICIENT AND COST-EFFECTIVE DELIVERY OF THE FREE INTERNET

*msk*



ACCESS FOR PUBLIC SPACES, THE DICT MAY PARTNER WITH PRIVATE INDIVIDUALS AND ENTITIES IN THE IMPLEMENTATION OF THE PROGRAM. PRIVATE SECTOR PARTICIPANTS TO THE IMPLEMENTATION OF THE PROGRAM SHALL NOT BE REQUIRED TO SECURE FRANCHISES FROM THE CONGRESS AND LOCAL GOVERNMENT UNITS.

EXCESS CAPACITY MAY BE OFFERED TO DELIVER INTERNET ACCESS SERVICE FOR COMPENSATION TO THE CITIZENS AND HOUSEHOLDS IN THE AREAS WHERE PROGRAM FACILITIES ARE LOCATED PROVIDED THAT SAID INDIVIDUALS OR ENTITIES REGISTER TO THE NATIONAL TELECOMMUNICATIONS COMMISSION AS VALUE ADDED SERVICE PROVIDERS.

IN ORDER TO LOWER COSTS, INCREASE AND IMPROVE THE FREE INTERNET SERVICE ACCESS FOR PUBLIC SPACES, PRIVATE SERVICE PROVIDERS ARE ENCOURAGED TO EXCHANGE DATA TRAFFIC AT DOMESTIC INTERNET PROTOCOL (IP) EXCHANGES, WHICH MAY BE DESIGNATED BY THE DICT;

- 3. Add another new Section, to read as follows:

SECTION \_\_\_\_\_. *TRANSPARENT USAGE POLICY.* – NO FEES SHALL BE COLLECTED FOR USE OF FREE INTERNET ACCESS IN PUBLIC SPACES. A TRANSPARENT USAGE POLICY SHALL BE IMPLEMENTED TO ENSURE THAT INDIVIDUALS WILL HAVE EQUITABLE ACCESS. NO RESTRICTIONS OR REQUIREMENTS THAT HINDER ACCESS SHALL BE IMPOSED, EXCEPT TO IMPLEMENT THE TRANSPARENT USAGE POLICY OR WHEN THERE IS A CLEAR AND PRESENT SECURITY OR TECHNICAL RISK THAT CANNOT BE REMEDIED THROUGH NORMAL TECHNICAL SOLUTIONS.

- 4. On line 18, before the word “data,” add the phrase PERFORMANCE AND SERVICE QUALITY;

*At this juncture, the session was suspended and was resumed shortly thereafter.*

- 5. After line 19, add a new paragraph to read as follows:

THE NTC SHALL PROVIDE MINIMUM STANDARDS FOR QUALITY OF SERVICE, INCLUDING BUT NOT LIMITED TO DOWNLOAD SPEED, LATENCY, PACKET

LOSS, AND JITTER FOR PUBLIC FREE INTERNET SERVICE. THE MINIMUM QUALITY OF SERVICE STANDARDS FOR FREE PUBLIC INTERNET ACCESS SHALL NOT BE LOWER THAN MINIMUM QUALITY OF SERVICE STANDARDS PROVIDED FOR RETAIL BASIC INTERNET CONNECTIVITY SERVICES OFFERED TO THE PUBLIC;

- 6. On line 20, after the word “publish,” insert the word SUCH;
- 7. Still on line 20, replace the phrase “such as but not limited to speed and stability of” with the phrase ON THE QUALITY OF;
- 8. On line 22, after the phrase “without need of,” replace the article “a” with the phrase PRIOR APPROVAL OF;

*The session was suspended and was resumed shortly thereafter.*

- 9. On line 28, insert a new Section 12 to read as follows:

SECTION 12. *FREE PUBLIC INTERNET ACCESS FUND.* – THERE IS HEREBY CREATED A FREE PUBLIC INTERNET ACCESS FUND (FPIAF) UNDER THE MANAGEMENT OF DICT TO PROVIDE FINANCING FOR THE IMPLEMENTATION OF THE PROGRAM. THE FPIAF SHALL BE FUNDED OUT OF THE SPECTRUM USERS FEES (SUF) COLLECTED BY THE NATIONAL TELECOMMUNICATIONS COMMISSION (NTC) AND OTHER SOURCES TO BE IDENTIFIED BY THE DEPARTMENT OF BUDGET AND MANAGEMENT (DBM);

- 10. Renumber the succeeding sections accordingly;
- 11. On line 31, after the word “Technology,” replace the comma (,) with the word AND; after the word “Commission,” insert a period (.);
- 12. On lines 32 to 34, delete the phrase “and concerned Local Government Units and National Government Agencies, including the Department of Education in the case of public basic education institutions, and the Department of Health in the case of public hospitals and health care centers”; and
- 13. On lines 35 and 36, replace the phrase “automatically appropriated out of the Spectrum User Fees (SUF) collection of the NTC” with SOURCED FROM THE FREE PUBLIC INTERNET ACCESS FUND.



**CLEAN COPY**

Senate President Pimentel directed the Secretariat to prepare a clean copy of the bill incorporating the approved individual amendments to be used for the following day's session.

**SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1277**

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

**MANIFESTATION OF SENATOR DRILON**

Senator Drilon noted that Senate Bill No. 14 under Committee Report No. 30 (adjusting the amount involved, value of property or damages on which a penalty is based and the fines under 1930 Revised Penal Code) was item no. 4 in the day's agenda. He said that he had discussed the proposed measure with Senator Lacson and they agreed to have the interpellations the following day. He then requested that it be made the first item on the agenda the next day because his understanding was that the interpellation would be very short. He feared that the bill might not be taken up if Senate Bill No. 1233 is placed ahead of it.

Senator Sotto said that he would talk to Senator Pangilinan because they earlier agreed that the coco levy fund bill would be taken up the following day.

**REQUEST OF SENATOR HONTIVEROS**

Senator Hontiveros requested that Senate Bill No. 1271 under Committee Report No. 17 (SOGIE

bill) be also rescheduled to the following day. She noted that it is the fifth session that the bill was scheduled for interpellation but was cancelled. She said that she spoke earlier to Senator Pacquiao who decided that he would no longer interpellate but would just introduce amendments to the bill. She also hoped that she and Senator Villanueva could have the interpellation but that it was apparent that it would not happen that day. She reiterated her request to consider the bill for the following day.

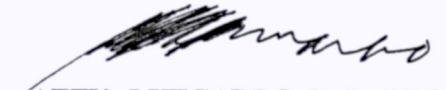
Senator Sotto replied that he would ask the Secretariat of the Committee on Rules to include Senator Hontiveros' bill in the agenda for the following day as he suggested that the Senator discuss the matter with the interpellators so that they could be scheduled for interpellations.

**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 6:27 p.m.*

I hereby certify to the correctness of the foregoing.

  
**ATTY. LUTGARDO B. BARBO**  
*Chief Secretary of the Senate*

Approved on March 1, 2017