

REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 63

Tuesday, February 6, 2007

**THIRTEENTH CONGRESS
THIRD REGULAR SESSION**

SESSION NO. 63
Tuesday, February 6, 2007

CALL TO ORDER

At 4:17 p.m., the Senate President, Hon. Manny Villar, called the session to order.

PRAYER

The Body observed a minute of silent prayer.

ROLL CALL

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

Angara, E. J.	Lacson, P. M.
Arroyo, J. P.	Lapid, M. L. M.
Biazon, R. G.	Lim, A. S.
Cayetano, C. P. S.	Madrigal, M. A.
Defensor Santiago, M.	Pangilinan, F. N.
Drilon, F. M.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Revilla Jr., R. B.
Ejercito Estrada, L. L. P.	Roxas, M.
Enrile, J. P.	Villar, M.
Flavier, J. M.	

With 19 senators present, the Chair declared the presence of a quorum.

Senators Gordon, Magsaysay, Osmeña and Recto arrived after the roll call.

**PARLIAMENTARY INQUIRY
OF SENATOR DEFENSOR SANTIAGO**

Invoking Section 107, Rule XXIX of the Rules of the Senate, Senator Defensor Santiago asked on the number of certified bills that were pending and until when sessions would be held before the long adjournment.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:19 p.m.

RESUMPTION OF SESSION

At 4:20 p.m., the session was resumed.

Responding to the query, Senator Pangilinan stated that he had been informed by the Secretary of the Senate that there were five pending certified bills and that based on the legislative calendar, the adjournment is on February 9, 2007, Friday. He explained that the matter of the last session day has not been discussed but based on experience, the Senate usually adjourns on a Thursday.

Senator Defensor Santiago explained that she raised the question because early this morning, she received a letter signed by President Macapagal Arroyo certifying to the urgency of the enactment of the Renewable Energy Act. She stated that she had not requested the inclusion of the bill in the list of priority measures to be acted upon before the end of the 13th Congress since it has not been certified and while she was prepared to sponsor the committee report that she filed on December 20, 2006, it was physically impossible for the Senate to pass it in view of the fact that there were five other pending certified measures.

She said that out of parliamentary courtesy, she has to wait for the enactment of the five pending certified measures before insisting that the Body consider the energy bill. Even if the Body were to approve the bill on Third Reading, she doubted whether the two Houses could hold a conference committee thereon; and even assuming she was able to finish the conference committee report, the

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Senate and the House of Representatives would no longer be in session. However, she said that she does not wish the Senate to be criticized later on for failing to act on a certified measure.

In view of the foregoing, Senator Defensor Santiago suggested that she remain as chair of the Committee, as she gave assurance that she would refile the certified bill on the first session day of the First Regular Session, and on the committee level, she would move that the previous hearings on the bill be adopted. In closing, she said that she would leave the matter to the Senate leadership.

At this juncture, Senator Pangilinan corrected that there were actually seven certified bills, including the energy bill, pending before the Senate.

DEFERMENT OF THE APPROVAL OF THE JOURNALS

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the consideration and approval of the Journals of Session Nos. 61 (January 31, 2007) and 62 (February 5, 2007) to a later day.

SUGGESTION OF SENATOR PIMENTEL

Senator Pimentel suggested that the energy bill be acted upon during the five session days left after the election period.

Senator Pangilinan confirmed that from the resumption of the session on June 4, 2007, there are five session days left before the *sine die* adjournment.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:26 p.m.

RESUMPTION OF SESSION

At 4:27 p.m., the session was resumed.

REFERENCE OF BUSINESS

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

BILL ON FIRST READING

Senate Bill No. 2596, entitled

AN ACT INCREASING THE MONTHLY EMOLUMENT OF BARANGAY OFFICIALS AND FOR OTHER PURPOSES

Introduced by Senator Lim

To the Committees on Local Government; and Finance

ADDITIONAL REFERENCE OF BUSINESS

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

Letters from the Secretary General of the House of Representatives, informing the Senate that on 31 January 2007, the House of Representatives passed the following House bills in which it requested the concurrence of the Senate:

House Bill No. 5506, entitled

AN ACT INCREASING THE PENALTIES FOR NONCOMPLIANCE WITH THE PRESCRIBED INCREASES AND ADJUSTMENTS IN THE WAGE RATES OF WORKERS, AMENDING FURTHER FOR THE PURPOSE REPUBLIC ACT NO. 6727, OTHERWISE KNOWN AS "THE WAGE RATIONALIZATION ACT," AND FOR OTHER PURPOSES

To the Committee on Labor, Employment and Human Resources Development

and House Bill No. 5877, entitled

AN ACT STRENGTHENING THE POLITICAL PARTY SYSTEM AND PROVIDING FUNDS THEREFOR

To the Committees on Constitutional Amendments, Revision of Codes and Laws; and Finance

COMMITTEE REPORT

Committee Report No. 249, submitted jointly by the Committees on Local Government; and Finance

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on House Bill No. 5884, introduced by Representative Duavit, entitled

AN ACT CREATING A BARANGAY TO BE KNOWN AS BARANGAY SAN CARLOS IN THE MUNICIPALITY OF BINANGONAN, PROVINCE OF RIZAL,

recommending its approval without amendment.

Sponsor: Senator Lim

To the Calendar for Ordinary Business

**COMMITTEE REPORT NO. 34
ON SENATE BILL NO. 2137
(Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2137 (Committee Report No. 34), entitled

AN ACT TO DEFINE AND PUNISH
THE CRIMES OF TERRORISM
AND CONSPIRACY TO COMMIT
TERRORISM AND OTHER ACTS
INCIDENT THERETO AND FOR
OTHER PURPOSES.

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

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:29 p.m.

RESUMPTION OF SESSION

At 4:30 p.m., the session was resumed.

Upon resumption, the Chair recognized Senator Enrile, Sponsor of the measure, and Senator Pimentel for the continuation of his amendments.

REMARKS OF SENATOR PIMENTEL

Senator Pimentel said that pursuant to an agreement with Senator Enrile, he would present his

other amendments when there is a quorum because the Body would be asked to vote on his proposed amendments that the Sponsor did not accept. He added that Senator Enrile has been very kind in accepting many of his amendments. He manifested that the senators have been furnished with a copy of the power-point presentation containing the proposed amendments.

For his part, Senator Enrile requested the Members to pay attention to the proposals of Senator Pimentel.

**PROPOSED AMENDMENT
OF SENATOR PIMENTEL**

Citing Section 3 of the bill, Senator Pimentel remarked that the commission of any of the five crimes lifted from the Revised Penal Code and any of the six crimes lifted from special laws would fall within the purview of the Anti-Terrorism Law. He observed that under the first paragraph of Section 3, the criminal is punished for the crime of terrorism regardless of his/her citizenship.

On page 2, line 16, Senator Pimentel proposed to reword the penalty provision with the insertion of the following provisions:

IF HE IS A FOREIGNER THEN HE/SHE IS
PUNISHED WITH FORTY (40) YEARS OF
IMPRISONMENT IN ACCORDANCE WITH
THE PROVISION OF THE ACT AND IF HE IS A
FILIPINO, ACTING IN CONSPIRACY WITH
THE FOREIGNER OR AN AGENT OF A FOREIGN
POWER OR A FOREIGN ORGANIZATION, HE/
SHE AND HIS/HER CO-CONSPIRATORS ARE
PUNISHED WITH FORTY (40) YEARS
IMPRISONMENT ALSO PURSUANT TO THE
PROVISIONS OF THE ACT.

HOWEVER, IF THE FILIPINO COMMITS
THE CRIME OF TERRORISM BY HIMSELF/
HERSELF, OR EVEN IN CONSPIRACY WITH
OTHER FILIPINOS, HE/SHE IS PUNISHED
ACCORDING TO THE PROVISIONS OF THE
REVISED PENAL CODE OR THE SPECIAL
LAWS THAT DEFINE THE PREDICATE
CRIMES SET FORTH IN THE ACT.

He argued that the acts enumerated from line 19 of page 2 up to line 2 of page 4 are predicate crimes and the commission of any such act, coupled with the circumstance of sowing and creating a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government

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to give in to an unlawful demand, would qualify it as an act of terrorism.

Senator Pimentel bared that according to his reading on anti-terrorism legislations of many countries, including the United Kingdom, Germany and Italy, acts of terrorism are penalized under existing penal laws. He pointed out that in the U.K., for instance, the terrorists who bombed the London underground railway on July 4, 2004, were prosecuted for the bombing and not for being terrorists.

He explained that under his proposal, a Filipino terrorist would be treated differently or less harshly than a foreign terrorist given the fact that the former is presumed to have contributed to the advancement and welfare of the nation at some point in his life; whereas, the latter deserves no lenient treatment because he has abused the hospitality of his Filipino hosts.

Asked about the penalty for murder under the Revised Penal Code, Senator Pimentel stated that it is *reclusion temporal* in its maximum period to *reclusion perpetua*.

Still on his proposed amendment, Senator Pimentel reasoned that it would preclude the use of the law by the powers-that-be as a tool to oppress or harass real or perceived enemies. He noted that mere suspicion of being a terrorist under the proposed Act carries a lot of implications. For instance, he pointed out that probable cause has to be determined by the courts but in the meantime, the suspects could be harassed by law enforcers.

Senator Enrile underscored that there must be probable cause before a suspect could be placed under surveillance or his bank accounts examined. He stated that he and Senator Pimentel have labored hard to institute safeguards in the bill.

INQUIRY OF SENATOR LACSON

Noting that terrorism is a borderless act, Senator Lacson asked why the proposed amendment distinguishes between a Filipino and a foreigner. Senator Pimentel explained that the bill does not define "terrorism" as such; rather, it defines acts that are considered acts of terrorism. He clarified that the proposal seeks to give a Filipino who has been indicted for committing an act of terrorism by himself/herself, the benefit of mitigating circumstance

provided in the Code that would therefore reduce his penalty. He pointed out that a Filipino accused of committing an act of terrorism would not be able to use mitigating circumstance if he were facing charges under the Anti-Terrorism Law that imposes one indivisible penalty of *reclusion perpetua* or life imprisonment. On the other hand, he stated that under the Code, the penalty for murder is *reclusion temporal* at its maximum period to *reclusion perpetua* and depending on the presence or absence of mitigating circumstance, the judge may validly impose the minimum rather than the maximum penalty.

Moreover, Senator Pimentel argued that by adopting his amendment, the extraordinary powers being vested in the police and other law enforcement officials under the proposed Act would not be available to them such that they may not, for example, place the suspect under extraordinary surveillance by tapping into his/her communication, make a warrantless arrest and detain him/her; or sequester or freeze his/her assets. He said that the proposal aims to lessen abuses by the police, law enforcement agencies and the prosecutor.

He clarified that the proposed amendment does not violate the equal protection clause of the Constitution because it favors Filipino citizens, bearing in mind the Supreme Court ruling in *Ichong vs. Hernandez* that the power of the legislature to make distinctions and classifications among persons is not curtailed nor denied by the equal protection clause. He added that the legislative power admits of a wide scope of discretion such that the law can be violative of the constitutional limitation only when the classification is without reasonable basis; however, citizenship is a legal and valid ground for the classification.

REMARKS OF SENATOR DEFENSOR SANTIAGO

Citing the Bill of Rights in the Constitution, Senator Defensor Santiago pointed out that in decided cases, the Supreme Court has ruled that because the Constitution uses the word "person" rather than "Filipino," the equal protection clause applies to both foreigner and citizen. She pointed out that the ruling in *Ichong vs. Hernandez*, issued with respect to the Retail Trade Rationalization Law, means that regardless of citizenship, all persons are entitled to equal protection, except only when the Constitution

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itself makes an exception, for instance, when it gives preferential treatment to Filipinos through the provisions on the economic patrimony, which include the right to engage in business. She explained that the Supreme Court dismissed the petition of Ichong, a foreign national, to be allowed to engage in retail trade, saying that the Constitution itself makes an exception to its own rule of equal protection.

Secondly, she noted that under international law, the Philippines is a party to the UN Covenant on Civil and Political Rights which contains an equal protection clause, and pursuant thereto, it is entirely possible that a foreigner might bring the Philippines to an arbitration tribunal which would find the Philippine government guilty of the crime of denial of justice. She disclosed that in many cases, such tribunals have ruled that there is a denial of justice or a violation of the UN covenant particularly in the equal protection clause if the criminal procedure applied to a foreigner is different from that applied to a local national.

Senator Defensor Santiago also pointed out that a foreigner charged under the Anti-Terrorism Law could file a complaint for discriminatory treatment with the Commission on Human Rights.

Finally, she noted that if penalties for a foreign terrorist are made higher than those for a Filipino, there is nothing that would prevent the foreign group from hiring Filipino operatives to execute the terrorist plot, taking into consideration how much it would cost the Filipinos to suffer the penalty.

For his part, Senator Enrile believed that crime has no nationality, citizenship or gender. In fact, he noted that the prosecution does not speak of the nationality of the criminal because a crime is a crime regardless of whether it was committed by foreigners alone or in conspiracy with Filipinos, or by Filipinos themselves. He did not accept the proposed amendment and asked the Body to vote on it.

Relative thereto, Senator Pimentel proposed that the foreign or local terrorist be punished according to the provisions of the predicated crime that was violated. Senator Enrile did not accept the proposed amendment, as he stressed that the bill defines the crime of terrorism and imposes a penalty on it.

Senator Pimentel asked for a vote on the proposed amendment.

SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

It was 5:08 p.m.

RESUMPTION OF SESSION

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

Upon resumption, Senator Pimentel withdrew his proposed amendment. In lieu thereof, he proposed a rewording of Section 3, the essence of which is that any person who commits any of the acts – (a) to (f) – punishable under the Revised Penal Code, or acts – (1) to (6) – punishable under special laws can be convicted of the crime of terrorism but punished under the Revised Penal Code or the special laws as the case may be.

Senator Enrile did not accept the substitute amendment, as he believed that it would defeat the purpose of the Anti-Terrorism Law. He reasoned that the predicate crimes are not really the crimes being committed but are ways of committing an act of terrorism that, along with other elements, is punishable under the Act. He asked for a division of the House.

REMARKS OF SENATOR ARROYO

At this juncture, Senator Arroyo noted that the conflict arose from the fact that Senator Enrile insisted that the crime of terrorism be punishable according to the Anti-Terrorism Law, while Senator Pimentel argued that a person convicted for offenses enumerated in the section be punished under the Revised Penal Code, which, in effect, would give no reason for enacting an Anti-Terrorism Law.

Senator Enrile explained that if a terrorist killed people with premeditation or with treachery using bombs and burning some section of the city, there would be a multiplicity of crimes under which he would be punished; on the other hand, there is a single penalty for the crime of terrorism and the crimes enumerated in Section 3 are nothing but its elements.

In reaction to Senator Arroyo's observation, Senator Pimentel argued that there is still a need for an Anti-Terrorism Law because it enumerates the

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procedures that the authorities would follow in dealing with terrorism as spelled out in the law itself and not in other legislations such as the Anti-Wire Tapping Act or the Anti-Money Laundering Act. With respect to the specific acts of terrorists, he said that he withdrew his earlier proposal so as to avoid a conflict with the Constitution.

Senator Enrile reiterated his call for a division of the House.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:33 p.m.

RESUMPTION OF SESSION

At 5:35 p.m., the session was resumed.

INQUIRY OF SENATOR ROXAS

Asked by Senator Roxas if terrorism exists over and above the crimes enumerated on line 19 of page 2 up to line 2 of page 4, Senator Enrile explained that even if the crime of murder has been committed, unless the other elements were present, the crime of terrorism would not occur. He added that the crimes enumerated in Section 3 are acts of violence used to commit the crime of terrorism which is distinct and separate from such acts.

Upon further queries, Senator Enrile confirmed that the elements that differentiate the crime of terrorism from acts of violence are spelled out in lines 3 to 6 of page 4, and such acts have to be proven along with the elements, otherwise, there is no crime of terrorism.

VOTING ON THE PROPOSED AMENDMENT OF SENATOR PIMENTEL

Thereupon, the Chair asked those in favor of the proposed amendment of Senator Pimentel to raise their hands and, thereafter, asked those against it to do the same.

With three senators voting in favor and nine against, the proposed amendment of Senator Pimentel was not approved.

PIMENTEL AMENDMENTS

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

1. On page 4, line 3, subject to style, replace the phrase "TO SOW AND CREATE" with THEREBY SOWING AND CREATING;
2. On the same page, line 8, delete the words "RECLUSION PERPETUA";

Senator Enrile clarified that this is with the understanding that if the evidence is strong, the person could not post bail and he would be meted the capital punishment.

3. On the same page, delete lines 13 to 19;
4. On page 12, as modified by the Sponsor, delete the word "IDENTITY" on line 5 up to the word "ACT" on line 9 and in lieu thereof, insert the phrase PERSON SUSPECTED OF THE CRIME OF TERRORISM IS NOT FULLY KNOWN, SUCH PERSON SHALL BE SUBJECT TO CONTINUOUS SURVEILLANCE PROVIDED THERE IS REASONABLE GROUND TO DO SO;
5. On page 14, lines 8 and 9, and wherever it appears in the bill, before the phrase "LAW ENFORCEMENT OFFICIAL," delete the adjective "GOVERNMENT";
6. On the same page, after the word "RECORDING" on line 11, insert the phrase OF THE TERMINATION OF THE SAID SURVEILLANCE, INTERCEPTION AND RECORDING, and after the word "RECORDING" on line 17, insert the phrase AS SPECIFIED ABOVE;

On page 14, line 23, Senator Pimentel proposed to reduce the number of hours from "FORTY-EIGHT (48)" to TWENTY-FOUR (24) hours.

Senator Enrile explained that law enforcement agents should not be overburdened lest they take shortcuts.

Senator Pimentel withdrew his proposed amendment.

Asked by Senator Pimentel on the reason for mentioning Section 13 on line 19 of page 20, *no*

no

Senator Enrile clarified that documents are deemed classified under Section 13.

On page 22, line 19, *Examination of Bank Deposits*, Senator Pimentel proposed to add the phrase PURSUANT TO THE ANTI-MONEY LAUNDERING ACT AND UNDER SECTION 27 OF THIS ACT.

Senator Enrile stated that the provision is independent of the Anti-Money Laundering Act (AMLA) which the Anti-Terrorism Council nonetheless has the authority to utilize.

Senator Pimentel withdrew his proposed amendment.

Upon queries of Senator Pimentel, Senator Enrile affirmed that Sections 28 and 31 would apply to a person charged with or suspected of the crime of terrorism.

In closing, Senator Pimentel manifested the desire of Senator Madrigal to propose her amendments to the bill as soon as she receives a clean copy thereof. He said that the sensitivity of the issues in the bill is so great as to require more time to make the proper amendments. Senator Enrile pointed out that the bill has been pending for so long and there were only two session days left.

SUSPENSION OF SESSION

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

It was 6:06 p.m.

RESUMPTION OF SESSION

At 6:19 p.m., the session was resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2137

Upon motion of Senator Pangilinan, there being no objection, the Body suspended consideration of Senate Bill No. 2137 with the understanding that a clean copy thereof would be produced within an hour, at which time, its consideration would be resumed.

COMMITTEE REPORT NO. 196 ON SENATE BILL NO. 2541

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2541 (Committee Report No. 196), entitled

**AN ACT PROVIDING FOR THE CONTROL
AND ELIMINATION OF RABIES,
PRESCRIBING PENALTIES FOR
VIOLATION THEREOF AND APPROPRIATING FUNDS THEREFOR.**

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

Thereupon, the Chair recognized Senator Cayetano, Sponsor of the measure, and Senator Madrigal for her amendments.

MOTION OF SENATOR CAYETANO

Senator Cayetano moved to close the period of individual amendments, saying that she was no longer in a position to accept any proposed amendment. She noted that after two weeks of waiting, the Committee has yet to receive any substantial amendment from Senator Madrigal.

OBJECTION OF SENATOR MADRIGAL

Senator Madrigal objected to the motion, recalling that last week, she and Senators Osmeña and Pimentel had a discussion to see if they could harmonize their individual amendments to the bill, for which purpose, they decided to meet with the proponents and lobbyists. Unfortunately, she said, the staff of Senator Cayetano left so no agreement was reached on the amendments.

On the anti-rabies bill, Senator Madrigal recounted that on December 19, 2006, Senator Defensor Santiago amended the coverage of the measure to include human and animal rabies and as a consequence, amended also the title of the bill.

In this regard, she asked whether the Defensor Santiago amendments gave rise to an entirely new bill that should be referred back to the Committee for more hearings, otherwise, it might violate Section 26, *etc.*

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Article VI of the Constitution which mandates that every bill passed by Congress shall embrace only one subject expressed in its title. Except for the title and the Declaration of Policy, she asserted that the rest of the bill refers to dogs.

Senator Madrigal proposed that the matter be referred to the Committee on Rules as she maintained that she would not give in to pressure to pass the bill precisely because of its ambiguous provisions.

In this connection, she stated that she has always been ready and willing to amend the bill but she agreed to the intercession of well-meaning senators to harmonize the individual amendments. She contended that it was unfair that the Minority would no longer be allowed to amend the bill which has very far-reaching impact.

Senator Madrigal also asked why a bill that has not even been certified as urgent was being rushed as she expressed the hope that the Majority and the Sponsor would see the wisdom of not legislating in haste given the fact that the measure has been complicated by the inclusion of human and animal rabies. She stressed that the only weapon of the Minority is to speak against a measure that they feel has not been thoroughly researched, and to propose relevant amendments to it.

Senator Madrigal acknowledged that the Majority could call for a vote on the motion but she reminded the Body that she agreed to the closure of the period of interpellations because she took at face value the word of the Majority that she could ask clarificatory questions even during the period of amendments. She said that had she known that the Sponsor would rush the bill with the motion to close the period of amendments, she would not have agreed to close the period of interpellations.

She stressed that it has been her practice to thoroughly study the bills and hold long hearings on them to be able to interpellate and propose amendments.

She took exception to the remark of Senator Cayetano that she was delaying the passage of the bill and to the insinuation that since she did not finish her interpellation on another bill, the experts would have to come back the following day. She believed that experts should not be at the beck-and-call of

sponsors during the periods of interpellations and of amendments on a bill.

Senator Madrigal recalled that yesterday, while she was ready to interpellate on the protected areas bills, Senator Cayetano deferred the interpellation until the next day.

SUSPENSION OF SESSION

Upon motion of Senator Madrigal, the session was suspended.

It was 6:35 p.m.

RESUMPTION OF SESSION

At 6:48 p.m., the session was resumed.

REMARKS OF SENATOR CAYETANO

To Senator Madrigal's claim that there was insufficient consultation on the anti-rabies bill and that she was rushing the bill, Senator Cayetano underscored that extensive debates and numerous consultations between the technical working group, the staff of Senator Madrigal and the stakeholders were held precisely to address the different issues involved. She stated that veterinary experts from the public and private sectors, deans of various colleges of veterinary medicine and other NGOs have signified their support for the bill and there are letters to prove so. These stakeholders, she said, have agreed to the amendments that the Committee accepted during the floor deliberations.

As regards the so-called harmonization of individual amendments that Senator Madrigal mentioned, Senator Cayetano stated that the stakeholders withheld their comments thereon. She stated that as committee chair, she relied on the representation of the stakeholders who, after all, are experts in the field.

Senator Cayetano assured the Body that the Defensor Santiago amendment would not in any way change the nature of the bill that still focuses on dogs which cause 98% of rabies cases.

She reiterated her motion to close the period of amendments.

Senator Madrigal asked the Body to act first on her inquiry.

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For her part, Senator Cayetano insisted that her motion preceded the inquiry to which, in fact, she has responded.

CLARIFICATION OF SENATOR PANGILINAN

At this point, Senator Pangilinan clarified that the inquiry of Senator Madrigal has already been addressed by Senator Cayetano and there is a pending motion to close the period of individual amendments.

Senator Madrigal stated that her parliamentary inquiry was directed to the Body and in it she raised the question of whether the bill, as amended, has to be referred back to the Committee.

Asked by Senator Madrigal to rule on her parliamentary inquiry, Senator Pangilinan said that there is no need for a ruling on an inquiry that only requires an answer.

Calling for a vote on the Cayetano motion, Senator Pangilinan pointed out that under the Rules of the Senate, while a motion is being discussed, no other motion shall be entertained so that the Cayetano motion has to be resolved ahead of the other motion.

REQUEST OF SENATOR PIMENTEL

Senator Pimentel requested that Senator Madrigal be allowed to explain her objection to the Cayetano motion, noting that the Body was not yet in the process of voting on it.

EXPLANATION OF SENATOR MADRIGAL

Senator Madrigal clarified that she objected to the Cayetano motion on the following grounds: 1) the bill had only one formal hearing; 2) the Committee did not form a technical working group; and 3) meetings on the bill were done informally.

Moreover, she disclosed that she had written Senate President Villar a letter on the issues involving the anti-rabies bill and where she reiterated her right to introduce amendments in accordance with Section 80 of the Rules of the Senate.

Senator Madrigal maintained that in a collegial body, the Minority has the same rights as the Majority to question and amend a bill. She recalled that precisely, she has been trying since December 2006 to incorporate the inputs of interested parties into her proposed amendments to the bill.

As regards the conduct of the interpellations, Senator Madrigal suggested that it be done in a professional manner, no matter how heated the debates.

Likewise, she took exception to the accusation that she has been wasting the time of the resource persons. She pointed out that senators should prepare for the interpellations, be able to answer queries themselves, and only resort to experts from time to time.

In regard to the 18 protected areas bills, Senator Madrigal underscored that she was trying to ensure that the legitimate rights of indigenous peoples in the affected communities would be respected, inasmuch as the rights of titleholders – even the rights of miners and loggers – would be affected.

Senator Madrigal insisted that the issues she has raised are legitimate as she pointed out that the legislative process grinds in a deliberate manner, and there is a purpose for all the scrutiny and debate to ensure that the Members act in accordance with the people's will.

She said that yesterday, she was ready to introduce amendments to the anti-rabies bill but apparently, Senator Cayetano was not available. Considering that the bill has not been certified by the President, she said that she was extremely confused when Senator Cayetano presented a motion to close the period of individual amendments which could set a precedent for other bills. She said that the Body has been kind enough to allow Members to raise clarificatory questions even during the period of amendments but this would not happen in the case of the instant bill. She expressed apprehension that in light of developments during the floor deliberations, senators may no longer believe in the assurances of their colleagues.

Senator Madrigal said that her amendments would have made major changes to the bill and she would have wanted to be clarified on issues like the creation of city and municipal veterinarian; the 45% and 55% ceiling for personal services under Section 325 the Local Government Code; and the appropriation of P100 million. She expressed disappointment that the Senate has not allowed good amendments to be inserted in a bill because the Majority has ruled so, one of the bitter pills that the Minority has to swallow.

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Senator Pangilinan called for a division of the House.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 7:32 p.m.

RESUMPTION OF SESSION

At 7:33 p.m., the session was resumed.

VOTING ON THE CAYETANO MOTION

Submitted to a *viva voce* vote, and with the majority of the Members voting in favor, and few against, the motion of Senator Cayetano to close the period of amendments was approved.

REQUEST OF SENATOR MADRIGAL

Senator Madrigal requested that the Committee on Rules provide her office with a response to her inquiry on the constitutionality of the bill. Senator Pangilinan acceded to the request.

APPROVAL OF SENATE BILL NO. 2541 ON SECOND READING

Submitted to a vote, and with the majority voting in favor, Senate Bill No. 2541 was approved on Second Reading.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2541

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

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 7:34 p.m.

RESUMPTION OF SESSION

At 7:37 p.m., the session was resumed.

COMMITTEE REPORT NO. 32 ON SENATE BILL NO. 2137 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2137 (Committee Report No. 32), entitled

AN ACT TO DEFINE AND PUNISH
THE CRIME OF TERRORISM
AND CONSPIRACY TO COMMIT
TERRORISM AND OTHER ACTS
INCIDENT THERETO AND FOR
OTHER PURPOSES.

Senator Pangilinan stated that the parliamentary status was still in the period of individual amendments. He announced that the Members have been furnished with a clean copy of the bill.

Thereupon, the Chair recognized Senator Enrile, Sponsor of the measure, and Senator Pimentel for the continuation of his amendments.

PIMENTEL AMENDMENTS

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

1. On page 4, lines 8 to 9, delete the words and figures "TWENTY (20) YEARS AND ONE (1) DAYS TO";

Senator Enrile clarified that, in effect, there would be one indivisible penalty which is the maximum period.

2. On page 5, lines 4 and 5, delete the words and figures "OF TWENTY (20) YEARS AND ONE (1) DAY"; and
3. On page 66, lines 12 to 14, delete Section 63.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 7:43 p.m. *48*

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RESUMPTION OF SESSION

At 7:45 p.m., the session was resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2137

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

SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report 102 on Senate Bill No. 2464 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 102 ON SENATE BILL No. 2464

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2464 (Committee Report No. 102), entitled

AN ACT PROVIDING PROTECTION FOR
BUYERS OF MOTOR VEHICLES,
ENFORCING SALES WARRANTIES,
IMPOSING PENALTIES FOR VIOLA-
TIONS THEREOF AND FOR OTHER
PURPOSES.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Pangilinan, 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 Roxas for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR ROXAS

In sponsoring Senate Bill No. 2464, Senator Roxas delivered the following speech:

ANTI-LEMON CAR BILL

As chair of your Committee on Trade and Commerce, it is the distinct honor and privilege

of this Representation to sponsor, for the consideration of this very august Chamber, Senate Bill No. 2464, entitled: "AN ACT PROVIDING PROTECTION FOR BUYERS OF MOTOR VEHICLES, ENFORCING SALES WARRANTIES, IMPOSING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES."

Senate Bill No. 2464 seeks to promote full protection to the rights of consumers in the sale of motor vehicles against sales and trade practices which are deceptive, unfair or otherwise inimical to consumers and public interest. This bill, recognizing that a motor vehicle is a major consumer investment, will define the rights of the buyer, including the means for redress for violations thereof.

The bill defines a "lemon" as a motor vehicle which is unfit, unreliable, or unsafe for ordinary use or reasonable intended purposes. It provides for an 18-month Lemon Law Rights period for brand-new cars.

The Lemon Law Rights period prescribes the time within which a consumer can report any nonconformity -- or a failure to conform to a warranty, a defect -- or a condition that significantly impairs the use, market value or safety of a motor vehicle. Within the said period, if the nonconformity was not repaired or corrected, consumer has the right of 1) replacement; or 2) return with refund of full purchase price.

During the Lemon Law Rights period, the measure presumes that a car is a lemon if the said car: 1) has been subject to repair three or more times, yet the same nonconformity continues to exist; 2) the nonconformity is a serious safety defect and has been subject to repair one or more times; or 3) is out of service due to repair for a cumulative total of 30 calendar days.

The car manufacturers shall, however, be without any defense. They can raise that they cannot be held liable if the alleged nonconformity: 1) does not make the vehicle a lemon, which renders it unfit, unreliable or unsafe for ordinary use or reasonable intended purposes; 2) is not a serious safety defect, or is not a life-threatening malfunction; or is the result of (1) abuse, (2) neglect, or (3) unauthorized modification or alteration by the consumer.

As a protection to third parties, the bill requires a disclosure of lemon cars for resale. The car manufacturer or distributor shall be required to disclose the information to the dealer prior to any sale, lease, or transfer and disclose the same to the LTO, which shall inscribe the CR with notation "Lemon Buyback."

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Hopefully, with the passage of this proposed measure, this Congress would help in providing for an enduring solution to the predicament of the purchase of a lemon car. It is in this respect that your support for the passage for this measure will be sincerely appreciated.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2464

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

SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 246 on Senate Bill No. 2593 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 246 ON SENATE BILL NO. 2593

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2593 (Committee Report No. 246), entitled

AN ACT TO PROMOTE ENTREPRENEURSHIP BY STRENGTHENING DEVELOPMENT AND ASSISTANCE PROGRAMS TO MICRO, SMALL AND MEDIUM-SCALE ENTERPRISES, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 6977, AS AMENDED, OTHERWISE KNOWN AS THE "MAGNA CARTA FOR SMALL ENTERPRISES" AND FOR OTHER PURPOSES.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Pangilinan, 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 Roxas for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR ROXAS

In sponsoring Senate Bill No. 2593, Senator Roxas delivered the following speech:

Your chairman of the Senate Committee on Trade and Industry is pleased to submit for your approval, Senate Bill No. 2593, which seeks to amend certain provisions of Republic Act 6977, otherwise known as the "Magna Carta for Small Enterprises "

It is with a sense of urgency that this humble Representation is pushing for the approval of this bill considering that the Magna Carta's provision on mandatory credit allocation will expire in May this year. Apart from extending the mandatory credit allocation for another ten years, the proposed bill seeks to increase credit allocation from eight to ten percent of a bank's total loan portfolio. It will also change the capital categorization of micro, small and medium enterprises, thereby expanding the coverage of beneficiaries under the Magna Carta. The authorized capital stock of the Small Business Finance and Guarantee Corporation will be doubled from P5 to P10 billion. Finally, a "limited" sovereign guarantee to all obligations contracted by the Corporation on behalf of the SME will likewise be provided by this measure.

This Representation wishes to inform our honorable colleagues that Senate Bill No. 2593 is supported by various industry stakeholders, including the Philippine Chamber of Commerce and Industry (PCCI), the Association of Filipino Franchisors, Inc. (AFFI) and the Foreign Buyers Association of the Philippines (FOBAP).

On their behalf and as our own humble gesture of support to more than 800,000 SMEs in the country, I respectfully ask that we approve Senate Bill No. 2593.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2593

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

COMMITTEE REPORT NO. 32 ON SENATE BILL NO. 2137

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2137 (Committee Report No. 32), entitled

AN ACT TO DEFINE AND PUNISH
THE CRIME OF TERRORISM AND
CONSPIRACY TO COMMIT TERRO-

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RISM AND OTHER ACTS INCIDENT THERETO AND FOR OTHER PURPOSES.

Senator Pangilinan stated that the parliamentary status was still in the period of individual amendments.

Thereupon, the Chair recognized Senator Enrile, Sponsor of the measure, and Senator Madrigal for her amendments.

STATEMENT OF SENATOR MADRIGAL

At this juncture, Senator Madrigal proceeded to read a statement that served as a framework in the crafting of her proposed amendments to the bill.

Senator Enrile interposed to say that he was ready to hear the proposed amendments of Senator Madrigal and not to listen to a speech, judging from the tenor of the statement.

In reaction, Senator Madrigal said that she wanted to explain the premise of her proposed amendments.

Senator Enrile asserted that the Body knew the metes and bounds of the bill that has been debated extensively. He stressed that there is no rush to pass the bill but as its Sponsor, he was duty-bound to defend it on the floor. He suggested that instead of reading the statement, Senator Madrigal move for its insertion into the Record of the Senate.

Upon the request of Senator Madrigal, hereunder is her prefatory statement in relation to her proposed amendments:

In order for the Sponsor and this Chamber to understand and hopefully take into serious consideration my individual amendments, I would like to manifest the framework which I used in studying this bill.

A law on terrorism alone cannot guarantee the defeat of terrorism or even its deterrence. It will only contain sweeping and vague provisions that undermine, among other things, the right to life, the right to freedom of expression and association, the liberty of movement, the prohibition against arbitrary detention, and the right to the presumption of innocence and fair trial.

While we recognize the right and duty of the State to self-defense and to protect national security, we are also against the use of violence

against civilians and non-combatants. Concomitant to national security interests is the protection of the security of persons under its jurisdiction and to take effective measures against acts of terrorism. But national security should not be used as an excuse to stifle the freedoms and the human rights guaranteed by the Constitution.

The panoply of powers being granted to the executive department under this bill, they argue, is a matter of national life and death and therefore, they must enjoy these powers. But as the editorial of *The Philippine Daily Inquirer* on 13 October 2006 pointed out:

"We must bear in mind that the administration trying to panic Congress into passing the law is the same administration that proclaimed the February 2004 bombing of the Superferry 14 as an accident. Indeed, President Gloria Macapagal Arroyo said it was the work of 'pranksters.' She and other officials admitted only that it was what everyone thought it was — the country's worst terrorist attack — in October, after she had claimed victory in the May 2004 elections. Yet four weeks after the bombing, Redondo Cain Delloso, alias Arnulfo Alvarado, had been captured by investigators and confessed he had planted the bomb where it would inflict the greatest number of casualties. The Abu Sayyaf claimed credit, but the government laughed it off — until after the elections. Even then, the President claimed six suspects had been caught, though the two masterminds evaded apprehension."

We agree with the position made by Amnesty International that, "security and human rights are not alternatives; they go hand in hand. Respect for human rights is the route to security, not an obstacle to it. The route to security is through respect for human rights, not their violations. As the UN Secretary-General Kofi Annan has stressed: "While we certainly need vigilance to prevent acts of terrorism... it will be self-defeating if we sacrifice other key priorities — such as human rights — in the process."

Worldwide, there is now a growing clamor for either the repeal of or modification of existing terrorism laws. This is amplified by the fact that, from 1996 until now, the United Nations has yet to offer a clear definition of terrorism. *for*

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In 2004, India, a country which has faced serious threats from terrorism and other forms of political violence, took a significant step forward for human rights by repealing its Prevention of Terrorism Act of 2002.

In a report on India's Anti-Terrorism and Security Law prepared by the Association of the Bar of the City of New York for the Committee on International Human Rights, it said that, *"Attentiveness to these human rights concern is not simply a moral and legal imperative, but also a crucial strategic imperative. As the Supreme Court of India has recognized, 'terrorism often thrives where human rights are violated, and the lack of hope for justice provides breeding grounds for terrorism.'"*

Present anti-terrorism legislations rely on the same institutions used in fighting other crimes – the police or military, the prosecution and the judiciary. More often than not, these same institutions have been tainted with doubts, and their competency to protect human rights laws seriously undermined. If these same institutions are used to confront the so-called menace of terrorism, intense pressure will only subject them to commit further abuses.

To break this cycle of merely legislating offenses without addressing the root problem of why terrorism exists, it is necessary to protect human rights and adopt a paradigm shift on how we view issues on security. While the State combats national security threats and problems, it is also its primordial responsibility that it does not violate human rights and humanitarian law principles in the process.

This shift can be done by adopting the principles of Human Rights and Human Security.

The Philippines, in the exercise of its right to self-defense in combating transnational crimes such as terrorism, cannot and should not sacrifice human rights and human security. As reiterated by the UN Security Council, General Assembly and Commission on Human Rights, now Human Rights Council, this legitimate fight against terrorist acts must be in full accordance with international law, in particular, human rights, humanitarian law and refugee law.

In the country's compliance with its treaty obligations under Terrorism and Human Rights conventions, it is mandatory that human rights are continually respected and protected. The Philippines ratified the following treaties on the suppression of terrorism: the International

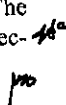
Con-vention Against the Taking of Hostages (1980); International Convention for the Suppression of Terrorist Bombing (2004); International Convention for the Suppression of the Financing of Terrorism (2004); International Convention for the Suppression of Unlawful Seizure of Aircraft (1973); and International Convention on the Prevention and Punishment of Crimes Against International Protected Persons (1976). We recognize our State obligation under these treaties in the same way we recognize our State obligations under the human rights treaties and instruments that we have also ratified. Thus, a balancing of security of concerns and human security issues should continually be sought.

On the one hand, human rights are universal, inherent, indivisible and interrelated. They are rights that what makes us human. They are rights that have to be upheld and respected both in times of peace and even in times of war.

The Philippines has ratified all the major human rights instruments, namely: International Covenant on Civil and Political Rights (1986); International Covenant on Economic, Social and Cultural Rights (1974); International Convention on the Elimination of All Forms of Racial Discrimination (1967); Convention on the Elimination of All Forms of Discrimination Against Women (1981); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); Convention on the Rights of the Child (1990); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1995).

Moreover, the Philippines is also a state party to the four (4) Geneva Conventions and its Protocol II as well as to the Refugee Convention and its Protocol.

On the other hand, human security refers to the security of individuals, as opposed to national security, which refers to the security of states. The concept grew out of a post-Cold War multi-disciplinary approach involving a number of research fields, including development studies, international relations, strategic studies, and human rights. While traditionalists focus on the defense of the nation-state, the individual is the unit of analysis in the study of human security.

Human security is people-centered. Its focus shifts to protecting individuals. The important dimensions are to entail the well-being of individuals and respond to ordinary people's needs in dealing with sources of threats. The means for traditional security is merely protec-


tion, but not empowerment. It relies on building up national power and military defense. The common forms it takes are armament races, alliances, strategic boundaries, etc. Human security is the opposite. It empowers people and societies as a means of security. People contribute by identifying and implementing solutions to insecurity.

Human security proponents assert that these traditional measures seem to exacerbate the problem over time and only beget further retaliation and retribution. They advocate that governments should instead focus on designing people-centered interventions to address enduring, underlying problems. Causal factors need to be delineated to determine inequalities and ascribe measures to achieve equal access to resources and sustainability for all peoples.

These interventions can take many forms. Human security further emphasizes that any intervention needs to address physical, psychological and political dimensions of security simultaneously. The psychological aspect to human security highlights the fact that too often the violence of a traditional military response simply begets further violence. "To use military means against an assortment of criminals and insurgents is simply to provoke and consolidate support for those groups." Instead, sustainable victory in such conflict situations means "to win a battle for the society, for its mindsets and psychologies, to address sources of grievance and anxiety, and to shore up institutions of governance."

I am pleased that the sponsor of the measure has accepted Senator Pimentel's amendment to the title of the bill from "Anti-Terrorism Act" to "Human Security Act." It is in the context further that I intend to introduce my amendments.

Human security refers to the security of individuals, as opposed to national security, which refers to the security of states. The key elements of my proposed amendments are:

- ♦ Adopts as a State policy to value the dignity of every human person and guarantee full respect for human rights as the means for ensuring the security of its people. Towards this end, the State shall adopt human security measures to protect the people from pervasive threats to their rights, safety and lives.
- ♦ Such measures shall include conflict management and post-conflict peace-building, to addressing the roots of conflict by building state capacity and promoting equitable economic development. The State shall further

advance the protection and promotion of human rights, the rule of law, the culture of peace and the peaceful resolution of conflicts by adopting interventions that is people-centered.

- ♦ Includes a separate chapter devoted entirely on human rights, such as:
 - recognition and equality before the law;
 - right to life;
 - protection from torture, cruel, inhuman and degrading punishment;
 - protection of the right to privacy and reputation;
 - freedom of movement;
 - freedom of thought, conscience and belief;
 - peaceful assembly and freedom of expression;
 - right to liberty and security of person;
 - right to humane treatment when deprived of liberty;
 - right to fair trial;
 - compensation for wrongful conviction;
 - right not to be punished more than once;
- ♦ Strengthens the Philippines' constitutional body – the Commission on Human Rights – by giving it prosecutorial powers on human rights abuses, and requiring it to adopt human security programs that will address the root causes of conflicts.
- ♦ Creation of an independent watchdog to ensure that human rights abuses shall not be committed, in the guise of preventing or prosecuting terrorist actions.

Most of us here can recall when Pope Paul VI told the United Nations, "*If you want to be brothers, let the arms fall from your hands.*"

And we remember how he made that emphatic, and immortal appeal, "*No more war, war never again! Never one against the other.*"

His hope, his entreaty, is our hope and our earnest prayer; but it is nowhere near being an accomplished reality either in his time or in ours. But "*Jamais la guerre!*" That is what he prayed; and it is what we must pray – and work to achieve. Our work begins with speaking forcefully, and in a unified manner, against such draconian laws and their approval.

Jamais le terrorisme! Never again, the terrorism of the state against its own!

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SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 8:02 p.m.

RESUMPTION OF SESSION

At 8:11 p.m., the session was resumed.

PIMENTEL AMENDMENTS

(Continuation)

As proposed by Senator Enrile, on behalf of Senator Pimentel, the Body approved, subject to style, the following corrections:

1. On page 26, line 7, insert a comma (,) after the word "informed";
2. On the same page, line 10, insert a comma (,) after the word "growth"; and before the preposition "of," and delete the words "FOR PURPOSES";
3. Wherever applicable in the bill, insert the preposition OF before the word "IMPRISONMENT."

MADRIGAL AMENDMENTS

On page 1, as the first sentence of the *Declaration of Policy*, Senator Madrigal proposed the insertion of the following: IT IS THE POLICY OF THE STATE TO VALUE THE DIGNITY OF EVERY HUMAN PERSON AND GUARANTEE FULL RECOGNITION, RESPECT, PROTECTION, AND FULFILLMENT OF HUMAN RIGHTS AS THE MEANS FOR ENSURING THE SECURITY OF ITS PEOPLE. TOWARDS THIS END, THE STATE SHALL ADOPT HUMAN RIGHTS AND HUMAN SECURITY MEASURES TO PROTECT THE PEOPLE FROM PERVASIVE THREATS TO THEIR RIGHTS, SAFETY AND LIVES.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment was being proposed to be consistent with the earlier amendment of Senator Pimentel, which was accepted by the Sponsor,

amending the title of the measure from "Anti-Terrorism Act" to "Human Security Act."

The Philippines has ratified all the major human rights instruments, namely: International Covenant on Civil and Political Rights (1986); International Covenant on Economic, Social and Cultural Rights (1974); International Convention on the Elimination of All Forms of Racial Discrimination (1967); Convention on the Elimination of All Forms of Discrimination Against Women (1981); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); Convention on the Rights of the Child (1990); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1995).

Moreover, the Philippines is also a State Party to the four Geneva Conventions and its Protocol II as well as to the Refugee Convention and its Protocol.

On the other hand, human security refers to the security of individuals, as opposed to national security, which refers to the security of states. The concept grew out of a post-Cold War multi-disciplinary approach involving a number of research fields, including development studies, international relations, strategic studies, and human rights. While traditionalists focus on the defense of the nation-state, the individual is the unit of analysis in the study of human security.

Senator Enrile did not accept the proposed amendment as he clarified that the constitutional mandate has been reflected in the Declaration of Policy and needs no further improvement. He added that there could be no more definitive statement of the desire to protect the Filipino people than the title of the bill.

On page 1, line 8, Senator Madrigal proposed to replace the term "law of nations" with the phrase REGIONAL AND INTERNATIONAL PEACE AND STABILITY AS WELL AS FOR ECONOMIC DEVELOPMENT.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

The term "law of nations" and its referral to nations as opposed to states is restrictive in terms of international law.

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In the "Digest of International Law," as cited in Justice Isagani Cruz's "Philippine Political Law," the State is a legal concept while the nation is only a racial or ethnic concept. The two concepts therefore have two different connotations. Justice Cruz citing further Hacksworth said, "the term nation strictly speaking, as evidenced by its etymology [*nasci* to be born] indicates a relation of birth or origin and implies a common race, usually characterized by a community of language and customs.

Thus, a nation may comprise of several states, e.g. the Arab Nation.

A nation however need not be a state at all, as demonstrated by the Poles after the dismemberment of their country in 1795 and then again in World War II, or by the Jews before the creation of the State of Israel in 1948.

Further, the propose amendment is also an expansion of the grave danger posed by terrorism. The ASEAN Convention in the "whereas clauses" made use as well of the said terms.

Senator Enrile did not accept the proposed amendment, explaining that the term is a concept in international law, and that the United Nations has, in fact, shown concern for acts of terrorism that are deemed acts against the laws of humanity and laws of nations.

On page 2, line 4, Senator Madrigal proposed to insert the following sentence: TOWARDS THIS END, THE STATE SHALL ENACT MEASURES TO ENSURE THE EFFECTIVE ENFORCEMENT OF THE STATE'S OBLIGATIONS UNDER ITS TREATY OBLIGATIONS IN THE FOLLOWING HUMAN RIGHTS TREATIES.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

Every state, by reason of its membership in the international community, is bound by the generally accepted principles of international law, which are automatically considered to be part of our own laws. This is known as the doctrine of incorporation, as enshrined in our Constitution, particularly in Section 2, Article II.

Our Supreme Court has applied the rules of international law in the decision of a number of cases. The treaties and conventions which I have mentioned are all State obligations, which

the government is bound to comply and observe. A reiteration of the said obligations in a bill such as this one which has direct implications on human rights is appropriate.

An example of this ruling is *Kuroda vs. Jalandoni* (42 *Official Gazette*, 4282). In this case, our Supreme Court ruled that the Philippines is bound by the generally accepted principles of international law binding upon all states.

The Philippines has ratified all of the treaties cited in the amendment.

Senator Enrile did not accept the proposed amendment, stating that the bill deals with the criminalization of terrorism and not with a general principle on the protection of human rights which would be a proper subject of another legislation.

On page 2, line 11, after the word "ACTIVITIES" and the period (.), as proposed by Senator Madrigal and accepted by the Sponsor, there being no objection, the Body approved the insertion of the following sentence: SUCH MEASURES THAT SHALL INCLUDE CONFLICT MANAGEMENT AND POST-CONFLICT PEACE-BUILDING, TO ADDRESSING THE ROOTS OF CONFLICT BY BUILDING STATE CAPACITY AND PROMOTING EQUITABLE ECONOMIC DEVELOPMENT.

Thereafter, Senator Madrigal proposed to add the following sentence: THE STATE SHALL FURTHER ADVANCE THE PROTECTION AND PROMOTION OF HUMAN RIGHTS, THE RULE OF LAW, THE CULTURE OF PEACE AND PEACEFUL RESOLUTION OF CONFLICTS BY ADOPTING INTERVENTIONS THAT ARE PEOPLE-CENTERED.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment is to emphasize the "Human Security" framework of the bill, which the good Sponsor has accepted when he agreed to change the title.

Human security is people-centered. Its focus shifts to protecting individuals. The important dimensions are to entail the well-being of individuals and respond to ordinary people's needs in dealing with sources of threats. The means for traditional security is merely protection, but not

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empowerment. It relies on building up national power and military defense. The common forms it takes are armament races, alliances, strategic boundaries etc. Human security is the opposite. It empowers people and societies as a means of security. People contribute by identifying and implementing solutions to insecurity.

Human security proponents assert that these traditional measures seem to exacerbate the problem over time and only beget further retaliation and retribution. They advocate that governments should instead focus on designing people-centered interventions to address enduring, underlying problems. Causal factors need to be delineated to determine inequalities and ascribe measures to achieve equal access to resources and sustainability for all peoples.

These interventions can take many forms. Human security further emphasizes that any intervention needs to address physical, psychological and political dimensions of security simultaneously. The psychological aspect to human security highlights the fact that too often the violence of a traditional military response simply begets further violence. "To use military means against an assortment of criminals and insurgents is simply to provoke and consolidate support for those groups." Instead, sustainable victory in such conflict situations means "to win a battle for the society, for its mindsets and psychologies, to address sources of grievance and anxiety, and to shore up institutions of governance."

Senator Enrile did not accept the proposed amendment as he said that the government should be given the freedom to exercise those powers. Besides, he pointed out that a section in the latter part of the bill gives a major role to the Commission on Human Rights.

On page 2, after line 15, as proposed by Senator Madrigal and accepted by the Sponsor, there being no objection, the Body approved the insertion of the following sentence: IT IS TO BE UNDERSTOOD, HOWEVER, THAT THE EXERCISE OF THE CONSTITUTIONALLY RECOGNIZED POWER OF THE EXECUTIVE DEPARTMENT OF THE GOVERNMENT SHALL NOT PREJUDICE RESPECT FOR HUMAN RIGHTS WHICH SHALL BE ABSOLUTE AND PROTECTED AT ALL TIMES.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

"Security and human rights are not alternatives; they go hand in hand. Respect for human rights is the route to security, not an obstacle to it. The route to security is through respect for human rights, not their violations. As the UN Secretary-General Kofi Annan has stressed: "While we certainly need vigilance to prevent acts of terrorism... it will be self-defeating if we sacrifice other key priorities — such as human rights — in the process."

Human rights law has sought to strike a fair balance between legitimate national security concerns and the protection of fundamental freedoms. It acknowledges that States must address serious and genuine security concerns, such as terrorism. The balance is reflected in the International Covenant on Civil and Political Rights (ICCPR), which has been ratified or acceded to by 151 States, as well as in regional human rights treaties such as the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the American Convention on Human Rights (ACHR), and the African Charter on Human and Peoples' Rights. The "Guidelines on Human Rights and the Fight against Terrorism," adopted by the Committee of Ministers of the Council of Europe on 11 July 2002, usefully articulate the balances in the context of the European system.

Terrorism may, under very specific conditions that will be considered below, lead to a state of emergency. Human rights law, notably Article 4 of the ICCPR, Article 15 of the ECHR and Article 27 of the ACHR, recognizes that some rights can be derogated in time of public emergency. (In contrast, the African Charter does not contain a derogation clause). The three conventions, however, mandate that certain rights are not subject to suspension under any circumstances. The three treaties catalogue these non-derogable rights. The list of non-derogable rights contained in the ICCPR includes the right to life; freedom of thought, conscience and religion; freedom from torture and cruel, inhuman or degrading treatment or punishment, and the principles of precision and of non-retroactivity of criminal law (except where a later law imposes a lighter penalty).

Derogation from other rights is only permitted in the special circumstances defined in each of the three treaties. According to the ICCPR and ACHR, any such measures must be of exceptional character, strictly limited in time and to the extent required by the exigencies of the situation, subject to regular review, consistent with other

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obligations under international law and must not involve discrimination. ECHR requires that such measures be limited to the extent required by the exigencies of the situation, provided that such measures are not inconsistent with other obligations under international law. The three treaties further require informing the Secretary-General of the UN or the relevant regional organization of the provisions from which a State has derogated and the reasons for such derogation.

Building on States' other obligations under international law, the UN Human Rights Committee has developed a list of elements that, in addition to the rights specified in Article 4, cannot be subject to lawful derogation (*see General Comment No. 29 in Annex II, below*). These elements include the following: all persons deprived of liberty must be treated with respect for their dignity; hostage-taking, abduction, and unacknowledged detention are prohibited; persons belonging to minorities are to be protected; unlawful deportations or transfers of population are prohibited; and "no declaration of a state of emergency ... may be invoked as justification for a State party to engage itself ... in propaganda for war, or in advocacy of national, racial or religious hatred that would constitute incitement to discrimination, hostility or violence".

On page 2, Senator Madrigal proposed that Section 3 be subdivided into subheading (A) to cover the acts punishable under the Revised Penal Code and the special laws and subheading (B) to be worded as follows:

(B) OR UNDER ANY OF THE FOLLOWING INTERNATIONAL TREATIES OR CONVENTIONS:

1. CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT, SIGNED AT THE HAGUE ON 16 DECEMBER 1970;
2. CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION, CONCLUDED AT MONTREAL ON 23 SEPTEMBER 1971;
3. CONVENTION ON THE PREVENTION AND PUNISHMENT OF CRIMES AGAINST INTERNATIONALLY PROTECTED PERSONS, INCLUDING DIPLOMATIC AGENTS, ADOPTED IN NEW YORK ON 14 DECEMBER 1973;
4. INTERNATIONAL CONVENTION AGAINST THE TAKING OF HOSTAGES, ADOPTED IN NEW YORK ON 17 DECEMBER 1979;

5. CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL ADOPTED IN VIENNA ON 26 OCTOBER 1979;
6. PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION, SUPPLEMENTARY TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION, DONE AT MONTREAL ON 24 FEBRUARY 1988;
7. CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION, DONE AT ROME ON 10 MARCH 1988;
8. PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACT AGAINST THE SAFETY OF FIXED PLATFORMS LOCATED ON THE CONTINENTAL SHELF, DONE AT ROME ON 10 MARCH 1988;
9. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF TERRORIST BOMBINGS, ADOPTED IN NEW YORK ON 15 DECEMBER 1997;
10. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM, ADOPTED IN NEW YORK ON THE 9TH OF DECEMBER 1999;
11. INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF ACTS OF NUCLEAR TERRORISM, ADOPTED IN NEW YORK ON THE 13TH OF APRIL 2005;
12. AMENDMENT TO THE CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL DONE AT VIENNA ON THE 8TH OF JULY 2005; AND
13. PROTOCOL OF 2005 TO THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION, DONE AT LONDON ON 14 OCTOBER 2005.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

Twelve international conventions related to terrorism have been adopted within the UN context. One gap in these conventions is the lack of a clear and commonly-agreed definition of terrorism. A draft comprehensive convention on terrorism is currently being debated at the General Assembly which is grappling with this issue. *MB*

Although terrorism has yet to be authoritatively defined, States have already agreed on some of its core elements. On 9 December 1994, the General Assembly adopted the Declaration on Measures to Eliminate International Terrorism, in the annex to resolution 49/60. The Declaration stated that terrorism includes "criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes," and further held that such acts "are in any circumstances unjustifiable, whatever the consideration of a political, philosophical, ideological, racial, ethnic, religious, or other nature that may be invoked to justify them."

The definition of **terrorism** is inherently controversial. The use of violence for the achievement of political ends is common to state and non-state groups. The difficulty is in agreeing on a basis for determining when the use of violence (directed at whom, by whom, for what ends) is legitimate.

The contemporary label of "**terrorist**" is highly pejorative; it is a badge which denotes a lack of legitimacy and morality. For terrorist groups and their government-sponsored supporters, it is crucial that they not be labeled a terrorist group; so as not to be labeled "terrorists" and by association as "terrorist nations." Groups that have described themselves as terrorists are therefore unknown. It is equally important for a group's opponents that the label "terrorist" be applied. The appellation "**terrorist**" is therefore always deliberately disputed. Attempts at defining the concept invariably arouse debate because rival definitions may be employed with a view to including the actions of certain parties, and excluding others. Thus, each party might still subjectively claim a legitimate basis for employing violence in pursuit of their own political cause or aim.

In a 1998 study, the U.S. Army found that over 100 definitions of the word "terrorism" have been used.

Among the various definitions are as follows:

Webster New Int'l.: The "act of terrorizing, or state of being terrorized; specifically: **a.** The system of the reign of terror; **b.** A mode of governing, or of opposing government, by intimidation; **c.** Any policy of intimidation."

Merriam-Webster: "(T)he systematic use of terror especially as a means of coercion."

American Heritage: "The unlawful use or threatened use of force or violence by a person or an organized group against people or property with the intention of intimidating or coercing societies or governments, often for ideological or political reasons."

Oxford: "(A) policy intended to strike with terror those against whom it is adopted; the employment of methods of intimidation; the fact of terrorising or condition of being terrorised."

II. Significant Incidents in History: Acts of Terrorism?

i. Assassinations:

a. Assassination of *Julius Caesar* by *Brutus, et al.* in the year 44 BC;

b. Attempted assassination of *King James I of England* in November 1605 (known as the "Gunpowder Plot") by a group of Roman Catholic conspirators led by *Guy Fawkes*, an English soldier;

c. Assassination of U.S. President *Abraham Lincoln* in April 1865 by *John Wilkes Booth*, a Confederate spy from Maryland

d. Assassination of *Alexander II, Czar of Russia*, by Polish national *Ignacy Hryniewiecki* in March 1881;

e. Assassination of *Archduke Franz Ferdinand of Austria* in June 1914 in Sarajevo by *Gavrilo Princip*, a Serb member of the Young Bosnia secret society, which precipitated the Austrian declaration of war against Serbia and triggered World War I;

f. Assassination of *Mahatma Gandhi* in January 1948 by *Nathuram Godse*, a Hindu radical with links to the extremist Hindu *Mahasabha*;

g. Attempted assassination of U.S. President *Harry Truman* in November 1950 by Puerto Rican nationalists over the issue of independence;

h. Assassination of U.S. President *John F. Kennedy* in November 1963 by *Lee Harvey Oswald*;

i. Execution of Marxist guerilla leader *Che Guevara* in October 1967 by the Bolivian army;

j. Assassination of American civil rights activist *Martin Luther King* in April 1968 by *James Earl Ray*;

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k. Assassination of U.S. Senator Robert F. Kennedy in June 1968 by Palestinian Sirhan Sirhan; and

l. Assassination of Israeli Prime Minister Yitzhak Rabin in November 1995 by Yigal Amir, a right-wing Jewish radical who had strongly opposed Rabin's signing of the Oslo Accords, and assassinations of other Jewish leaders relating to Israel.

ii. Other Events:

a. The English Civil War from 1642 to 1651;

b. The French Revolution from 1789 to 1799;

c. The American Civil War from 1861 to 1865;

d. World War I and World War II;

e. Reign of Adolf Hitler as Chancellor (from 1933) and "Führer" (or leader, from 1934) of Germany up to his death in 1945;

f. Chinese communist revolution led by Mao Tse Tung, which culminated in the establishment of the People's Republic of China in October 1949;

g. Tenure of Joseph Stalin as Soviet *de facto* leader for a quarter of a century (1928-1953), as well as his stint as General/First Secretary of the Central Committee of the Communist Party of the Soviet Union for more than 30 years (1922-1953);

h. Protagonists of the different Middle East conflicts in recent years; and

i. U.S. Presidents and their respective policies of intervention in Middle East conflicts.

iii. Philippine Heroes and Significant Events

1. Diego Silang, who led a revolt to overthrow Spanish rule and establish an independent Ilocandia in the early 1760s;

2. Gabriela Silang, the first Filipino woman to lead a revolt against Spanish colonization in the 1760s;

3. Fathers Gomez, Burgos and Zamora (Gomburza), who were executed in 1872 on trumped-up charges of subversion in connection with the Cavite mutiny;

4. Jose Rizal and his act of martyrdom;

5. Andres Bonifacio and the founding of the Katipunan in 1892;

6. Emilio Jacinto and his writings for the Katipunan;

7. Emilio Aguinaldo and his revolutionary activities against the Spanish and American colonial governments;

8. Gregorio del Pilar and the famous Battle of Tirad Pass;

9. Gen. Antonio Luna and Juan Luna during the Philippine-American war in the late 1890s;

10. Apolinario Mabini and the drafting of the Philippine Constitution of 1998;

11. Gen. Maximo Hizon, who led Filipino forces against the Americans in the so-called Battle of Zapote Bridge in 1898;

12. Macario Sacay, the general who continued the fight against American colonists in the early 1900s;

13. Pedro Abad Santos and the birth of the Socialist Party of the Philippines in 1932;

14. Ninoy Aquino and the other opponents of martial law and Marcos; and

15. The leaders and supporters of the various *Edsa* Revolutions.

Senator Enrile did not accept the proposed amendment, saying that he was not prepared to embody in the bill the provisions of these international treaties, conventions and protocols that he has not studied and he did not want to endanger the liberties of the Filipinos who do not know their contents.

On page 4, line 9, after the word "IMPRISONMENT," Senator Madrigal proposed to insert a period (.) and to delete the rest of the sentence.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

The benefit of parole, although a privilege and not a right, should be accorded to all criminal offenders entitled to it. There should be equity in its application.

Senator Enrile likewise did not accept the proposed amendment as it is an amendment of Senator Lacson.

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SUSPENSION OF SESSION

Upon motion of Senator Madrigal, the session was suspended.

It was 8:30 p.m.

RESUMPTION OF SESSION

At 8:31 p.m., the session was resumed.

On page 4, after line 19, Senator Madrigal proposed to add a new paragraph to read as follows:

IF THE CHARGE OF TERRORISM IS NOT PROVEN, IN APPROPRIATE CASES, THE CASE SHALL BE DISMISSED AND THE ACCUSED SHALL BE ENTITLED TO COMPENSATION FOR WRONGFUL CONVICTION OR MALICIOUS PROSECUTION.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

The accused must be given monetary compensation for his/her mental anxiety and emotional anguish in answering charges which were baseless in the first place.

In response, Senator Enrile pointed to the amendment of Senator Pimentel bearing on the same subject matter.

On page 6, line 23, after the word "TERRORISM," Senator Madrigal proposed to insert the phrase BY A PRINCIPAL OFFENDER.

Senator Madrigal stated that her concern is that even if the case against the principal was dropped, the accessory might still be charged. Senator Enrile explained that an accessory commits the crime after the act of terrorism itself, hence, if there is no act of terrorism, there is no accomplice and neither is there an accessory.

SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

It was 8:39 p.m.

RESUMPTION OF SESSION

At 8:43 p.m., the session was resumed.

On page 9, line 7, Senator Madrigal proposed to delete the phrase "OR SUSPECTED OF THE."

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment was placed in order to limit the surveillance to those who are already charged of the crime of terrorism, and not merely those suspected. Anyone may be a suspect in the crime of terrorism. If we are to allow surveillance of those merely suspected then we are trampling on everyone's constitutional right to be secure in their person, houses, papers and effects against unreasonable intrusion by the State.

Senator Enrile did not accept the proposed amendment on the ground that there is need for an individual to be placed under surveillance and his bank account examined prior to being charged. He stressed that one of the purposes of the bill is to help law enforcers gather evidence to prosecute individuals who seek to do harm.

On page 9, line 13, after the word "SOURCES," Senator Madrigal proposed to insert the phrase MINISTERS, PRIESTS AND ANY PERSON WHO COME TO THEM FOR SPIRITUAL GUIDANCE, MEMBERS OF CONGRESS AND THEIR CONSTITUENTS.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This is merely an extension of the privileged communication enjoyed between priests, ministers and their confessants which is provided in the Rules of Court. The addition of the Members of Congress in the proposed amendment is for the purpose of ascertaining that their legislative work is unhampered by unnecessary intrusion.

Senator Enrile did not accept the proposed amendment as he noted that under the Rules of

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Evidence, confessions cannot be the subject matter of inquiry and as for members of Congress, they took an oath to protect the people and the State.

On page 9, line 14, after the word "AUTHORIZED," Senator Madrigal proposed to change the period (.) to a comma (,) and to insert the phrase NOR CAN LAWYERS, DOCTORS, JOURNALISTS, MINISTERS, PRIESTS, MEMBERS OF CONGRESS, SECRETARIES, CLERKS OR EMPLOYEES BE THE SUBJECT OF SURVEILLANCE, INTERCEPTION AND RECORDING OF COMMUNICATIONS.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This is in order to extend the exception to those working under the command of the lawyer, doctor, priest and members of Congress, because the exception can be easily thwarted if no similar protection will be granted to those working under their employ.

Senator Enrile did not accept the proposed amendment that would, in effect, grant immunity to those persons.

Asked whether he would be amenable to the inclusion of members of Congress, Senator Enrile stated that this involves a basic policy issue because members of Congress or members of government should be circumspect, so that if they intend to harm the State, they should not be immune from prosecution.

On page 10, line 8, after the word "PERSON," Senator Madrigal proposed to insert the words CHARGED WITH.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment is placed as an added protection to those charged with the crime of terrorism.

Senator Enrile clarified that the deletion of the words "CHARGED WITH OR" was proposed by Senator Pimentel for fear the communications of the person might be intercepted while he is in jail.

Asked by Senator Pimentel whether a member of Congress who conversed with Jose Maria Sison in the Netherlands could be suspected of the crime of terrorism, Senator Enrile replied in the negative, adding that there has to be probable cause to warrant a surveillance.

On page 10, line 12, Senator Madrigal proposed the deletion the words "ex parte."

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

An *ex parte* application does not give the person charged or suspected of the crime of terrorism the opportunity to refute, rebut and disprove the claims made by a police or law enforcer. This broad range of power granted to police or law enforcer might be subject to abuse, and may be used by police officers to tap conversations even of those not suspected of the crime.

Senator Enrile did not accept the proposed amendment, saying that there must be a certain degree of secrecy in the surveillance, otherwise, the law enforcers would not be able to gather evidence against the individual.

On page 10, line 18, after the word "ON," Senator Madrigal proposed the insertion of the phrase THE APPLICANT'S.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment is placed in order to limit the coverage of the persons who can apply for an authority to wiretap. The right of the people to their privacy is a high constitutional right. This should not be trampled lightly.

Senator Enrile did not accept the proposed amendment as he explained that there might be a situation where it is not the applicant but the witness who may have personal knowledge of the facts or circumstances.

On page 11, line 3, after the word "evidence," Senator Madrigal proposed the replacement of the *AB*

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period (.) with a comma (,), and the insertion of the following: AND SUCH OTHER MEANS HAVE BEEN FULLY EXHAUSTED AS CERTIFIED IN WRITING BY THE APPLICANT. THE CERTIFICATION MUST FURTHER STATE THE EFFORTS AND MEANS TAKEN BY HIM.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment is placed in order to further protect the privacy of the person charged with the crime of terrorism. This is to ascertain that surveillance and wiretapping are resorted to as a last remedy and will not be used if other means for obtaining evidence can still be availed of.

Senator Enrile did not accept the proposed amendment as he clarified that the same idea is expressed in lines 2 and 3 of the same page.

As proposed by Senator Madrigal and accepted by the Sponsor, there being no objection, the Body approved the following amendments:

1. On page 11, line 12, after the word "PAPERS," insert the phrase MESSAGES, CONVERSATIONS, DISCUSSIONS, SPOKEN OR WRITTEN WORDS;
2. On the same page, line 18, after the word "INTERFERENCE," insert the phrase BEFORE THE COURT OF APPEALS WHICH ISSUED THE WRITTEN ORDER;

On page 12, Senator Madrigal proposed the deletion of the provision starting with the word "OR" on line 4 up to the word "ACT" on line 9.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

The deletion of the phrase on continued surveillance of the person charged with terrorism but whose identity is not yet ascertained, is a further protection of those who are not yet suspected but may be placed under surveillance.

Senator Enrile declined the amendment in view of the rewording of this particular portion of Section 9 by Senator Pimentel.

3. On page 12, line 12, between the words "the" and "identity," insert the word INDIVIDUAL;

On page 12, line 19, after the word "out," Senator Madrigal proposed the insertion of a semicolon (;) and a new subparagraph (e) to read as follows:

E. CERTIFICATION BY APPLICANT THAT THERE IS NO OTHER MEANS READILY AVAILABLE FOR ACQUIRING SUCH EVIDENCE AND ALL OTHER EFFORTS AND MEANS HAVE BEEN FULLY EXHAUSTED.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment was placed in order to further protect the privacy of the person charged with the crime of terrorism. This is to ascertain that surveillance and wiretapping are resorted to as a last remedy and will not be used if other means for obtaining evidence can still be availed of.

Senator Enrile rejected the proposed amendment as he explained that it is not relevant to Section 9 which deals with the classification and contents of a court order which includes those stated in subparagraphs (a) to (e) and has nothing to do with the application for permission to acquire evidence.

4. On page 12, line 23, between the words "shall" and "be," insert the word ONLY;


On page 13, line 1, Senator Madrigal proposed to change "THIRTY (30)" to FIFTEEN (15).

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment is for the purpose of further limiting the intrusion of the State on the privacy of its citizens. If a person suspected of the crime is in fact a terrorist, the fifteen day period is sufficient to gather evidence and to build a case against him.

Senator Enrile did not accept the proposed amendment as he noted that the period has been reduced by half.

5. On page 13, line 8, after the word "another," insert the word NON-EXTENDIBLE. 



On page 13, line 14, after the word "Council," Senator Madrigal proposed the substitution of the period (.) with a comma (,) and the insertion of the phrase AND PROPERLY SUBMITTED TO THE AUTHORIZING DIVISION OF THE COURT OF APPEALS.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment is being introduced to be consistent with our earlier amendments and to make sure that the Court is informed of every step of the proceedings.

Senator Enrile rejected the proposed amendment as he explained that the extension must be authorized by the Anti-Terrorism Council before it is filed before the authorizing division of the Court of Appeals.

6. On page 15, line 17, after the word "OR," insert the word ANY;
7. On the same page, line 19, after the word "TO," insert the phrase COPY IN WHAT-EVER FORM and a comma (,);
8. On page 16, line 6, between the words "the" and "members," insert the word INDIVIDUAL;
9. On page 17, line 9, replace the phrase "COMMITTS THE ACTS" with VIOLATES ANY OF THE ACTS;
10. On page 17, lines 11 and 12, change the penalty from "FOUR (4) YEARS, TWO (2) MONTHS AND ONE DAY TO SIX (6) YEARS IMPRISONMENT" to NOT LESS THAN TEN YEARS AND ONE DAY TO TWELVE (12) YEARS IMPRISONMENT;
11. On page 18, line 4, after the word "WITH," insert the words PROPER WRITTEN;
12. On page 19, line 6, after the word "notify," insert the phrase IN WRITING THE PERSONS SUBJECT OF THE SURVEILLANCE AND TO CONTINUE;
13. On the same page, line 21, after the article "THE," insert the words AUTHORIZING DIVISION OF THE; and
14. On page 21, delete the words beginning with the word "or" on line 6 up to the word "acts" on line 7.

On page 21, line 13, Senator Madrigal proposed the replacement of the phrase "competent Regional Trial Court" with COURT OF APPEALS.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment is being introduced to make sure that the Court which will have power to declare an organization as a terrorist one is not just composed of a single judge but of three justices of the Court of Appeals.

Senator Enrile did not accept the proposed amendment, explaining that the provision speaks of proscription, a live case where the rights of the organization to be heard, whether it is a terrorist organization or not, must be heard by the Regional Trial Court, not by the Court of Appeals.

On the same page, line 15, Senator Madrigal proposed the deletion of the words "and outlawed." Senator Enrile did not accept the proposed amendment, explaining that the proscription of any organization must be a pronouncement by the court; an organization that is not declared by the court as a terrorist organization is not said to be outlawed unless it openly challenges by arms or other violent means the sovereignty of the country. But Senator Madrigal opined that removing the word "outlawed" would protect organizations which are outlawed but do not espouse terrorism.

At this point, Senator Pimentel stated that the bill treats outlawed organizations better than the laws of other countries where an organization could be tagged as a terrorist organization without any court hearing. He said that this is the reason he supported this particular provision: it is not arbitrary and it is supported by court proceedings.

SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

It was 9:23 p.m.

RESUMPTION OF SESSION

At 9:24 p.m., the session was resumed. *AP*

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SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2137

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

SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 247 on House Bill No. 5891 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 247 ON HOUSE BILL NO. 5891

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, House Bill No. 5891 (Committee Report 247), entitled

AN ACT RENAMING BAY BOULEVARD
LOCATED IN PASAY CITY, EXTEN-
DING UP TO PARAÑAQUE CITY, AS
JOSE W. DIOKNO BOULEVARD.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Pangilinan, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

SPONSORSHIP SPEECH OF SENATOR REVILLA

Upon motion of Senator Pangilinan, there being no objection, the sponsorship speech of Senator Revilla on House Bill No. 5891 was considered read into the Record of the Senate.

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

RENAMING BAY BOULEVARD AS JOSE W. DIOKNO

I have recently submitted an omnibus sponsorship for eight (8) House bills on the renaming of various roads. The proposed law which I am sponsoring today is generally of the same nature. House Bill No. 5891, under Committee Report No. 247, entitled, "An Act Renaming Bay Boulevard Located in Pasay City, Extending up to Parañaque City, as JOSE W.

DIOKNO Boulevard" by Representatives Zialcita and Abaya, was transmitted to the Committee on Public Works and Highways last week and the public hearing was held immediately thereafter.

The present Bay Boulevard traverses the reclamation area from the present Buendia Avenue or the Gil Puyat Avenue in Pasay City near the Experimental Cinema of the Philippines up to Asia World in Parañaque City. Soon, this area will be considered a significant economic landmark because of the rapid developments currently taking place in this part of Metro Manila.

My speech will concentrate on Jose W. Diokno's life which exemplifies his achievements and accomplishments, in order to impart to everyone the reasons why he deserves to be remembered and immortalized.

Jose W. Diokno was the grandson of General Ananias Diokno of the Philippine Revolutionary Army, and son of former Senator and Justice of the Supreme Court, Ramon Diokno. He earned his bachelor's degree in Commerce graduating *summa cum laude* in La Salle University. He topped the CPA Board Examinations in 1940.

In 1962, he became the Secretary of Justice and was known for handling a highly controversial case involving Harry Stonehill, who was investigated and prosecuted for tax evasion and other crimes. Ironically, Harry Stonehill was the one who initiated the reclamation of Manila Bay, where a portion of this boulevard now stands.

In the November 1963 elections, he ran for senator and he won. He was consistently voted as an outstanding senator by the *Philippine Free Press* because of his pro-people advocacy, such as the Industrial Incentives Act which aims to place the control of the Philippine economy in the hands of Filipinos. He was also commended for his unflattering opposition to the "Philcag Bill" which proposed the sending of Filipino troops to Vietnam. He was recognized, as well, for his studies on the petroleum industries which led to the passage of a law regulating the petroleum industry in the land.

During martial law, he was one of the first members of the opposition who got arrested without any charges filed against him because of his crusade for human rights. When he was released in 1974, he founded and led the Free Legal Assistance Group (FLAG) until his death. FLAG is the oldest and largest organization of human rights lawyers in the Philippines.

From then on, he fearlessly fought for the restoration of Philippine democracy and he was

very active in opposition rallies denouncing the Marcos dictatorship. After the EDSA Revolution, President Aquino appointed him as the chairman of the Presidential Committee on Human Rights, but after the Mendiola Massacre, he resigned in protest of what he called a wanton disregard of human lives by the administration he helped install. President Aquino declared March 2-12, 1987 as a period of national mourning for Diokno wherein flags of all government buildings and installations throughout the country were flown at half-mast.

On May 2, 2004, President Gloria Macapagal Arroyo posthumously bestowed upon him the Order of Lakandula Award, with the rank of Supremo for his sterling and incomparable qualities of a Filipino.

There is a consistent clamour for him to be declared a national hero. However, despite his achievements which would have qualified him as such, the requisite 50-year wait policy prescribed by the National Historical Institute has not been met so far.

In a nutshell, Jose W. Diokno was a renowned street parliamentarian, a staunch human rights advocate, a nationalist, and a legal luminary. It should be noted that the National Historical Institute interposes no objection to the renaming of Bay Boulevard to Jose W. Diokno Boulevard.

In light of the late Senator's achievements, contributions and love for his country, I sincerely hope that this august Chamber will honor his memory through the passage of this bill renaming Bay Boulevard to Jose W. Diokno Boulevard.

SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 5891

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

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 9:26 p.m.

RESUMPTION OF SESSION

At 9:26 p.m., the session was resumed.

PUBLIC WORKS BILLS (Continuation)

With the unanimous consent of the Body, upon motion of Senator Pangilinan, the Body resumed consideration, on Second Reading, of the following bills:

1. House Bill No. 1667 (Committee Report No. 207), entitled

AN ACT RENAMING CALIFORNIA AVENUE IN THE CITY OF SAN FERNANDO, PROVINCE OF LA UNION AS MAYOR LORENZO L. DACANAY AVENUE;

2. House Bill No. 189 (Committee Report No. 206), entitled

AN ACT RENAMING THE ENTIRE PORTION OF GEN. TRIAS - AMADEO - TAGAYTAY ROAD FROM GOVERNOR'S DRIVE TO TAGAYTAY CITY IN THE PROVINCE OF CAVITE TO CRISANTO M. DELOS REYES AVENUE;

3. House Bill No. 2753 (Committee Report No. 205), entitled

AN ACT NAMING THE SOUTHERN TAGALOG ARTERIAL ROAD (STAR) TO APOLINARIO MABINI SUPER-HIGHWAY (AMS);

4. House Bill No. 4457 (Committee Report No. 204), entitled

AN ACT RENAMING THE GAPAN - SAN FERNANDO - OLONGAPO ROAD (GSO ROAD) AS JOSE ABAD SANTOS AVENUE (JASA);

5. House Bill No. 1243 (Committee Report No. 203), entitled

AN ACT NAMING THE CIRCUMFERENTIAL ROAD CONNECTING THE MUNICIPALITIES OF VILLABA, TABANGO, SAN ISIDRO, CALUBIAN AND LEYTE-LEYTE AS MARCELINO R. VELOSO NATIONAL HIGHWAY;

6. House Bill No. 1605 (Committee Report No. 202), entitled

AN ACT RENAMING PENNSYLVANIA AVENUE IN THE CITY OF SAN FERNANDO, PROVINCE OF LA UNION

AS GOVERNOR JOAQUIN L. ORTEGA
AVENUE;

7. House Bill No. 4085 (Committee Report No. 201), entitled

AN ACT NAMING THE SAN NICOLAS-SOLSONA PORTION OF THE ILOCOS NORTE-APAYAO ROAD AS THE JOSEFA LLANES ESCODA NATIONAL HIGHWAY;

8. House Bill No. 4084 (Committee Report No. 200), entitled

AN ACT RENAMING THE SAGRADA-LIDONG ROAD EXTENDING FROM THE PROVINCE OF CAMARINES SUR TO THE PROVINCE OF ALBAY AS DIOSDADO MACAPAGAL HIGHWAY; and

9. House Bill No. 5891 (Committee Report No. 247), entitled

AN ACT RENAMING BAY BOULEVARD LOCATED IN PASAY CITY, EXTENDING UP TO PARAÑAQUE CITY, AS JOSE W. DIOKNO BOULEVARD.

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

TERMINATION OF THE PERIOD OF INTERPELLATIONS

There being no interpellation on any of the bills, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of interpellations and proceeded to the period of amendments.

TERMINATION OF THE PERIOD OF AMENDMENTS

There being no committee or individual amendment to any of the bills, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of amendments.

APPROVAL OF HOUSE BILLS ON SECOND READING

Submitted to a vote, there being no objection, the following House bills were approved on Second Reading, one after the other, in the following order:

1. House Bill No. 4084;
2. House Bill No. 4085;
3. House Bill No. 1605;
4. House Bill No. 1243;
5. House Bill No. 4457;
6. House Bill No. 2753;
7. House Bill No. 189;
8. House Bill No. 1667; and
9. House Bill No. 5891.

SUSPENSION OF CONSIDERATION OF HOUSE BILL NOS. 4084, 4085, 1605, 1243, 4457, 2753, 189, 1667 AND 5891

Upon motion of Senator Pangilinan, there being no objection, the Body suspended consideration of the bills.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 9:32 p.m.

RESUMPTION OF SESSION

At 9:32 p.m., the session was resumed.

SPECIAL ORDERS

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of the following from the Calendar for Ordinary Business to the Calendar for Special Orders:

1. Committee Report No. 233 on House Bill No. 591;
2. Committee Report No. 234 on House Bill No. 786;
3. Committee Report No. 235 on House Bill No. 574; and
4. Committee Report No. 236 on House Bill No. 2072.

TOURISM BILLS

With the unanimous consent of the Body, upon motion of Senator Pangilinan, the following bills were considered on Second Reading:

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1. House Bill No. 591 (Committee Report No. 233), entitled

AN ACT DECLARING THE ATULAYAN ISLAND OF THE MUNICIPALITY OF SAGNAY, PROVINCE OF CAMARINES SUR AS A TOURIST ZONE;

2. House Bill No. 786 (Committee Report No. 234), entitled

AN ACT DECLARING THE ISLAND-TOWNS OF BIRI, CAPUL, SAN ANTONIO AND SAN VICENTE, ALL IN THE PROVINCE OF NORTHERN SAMAR AS ECO-TOURISM ZONES;

3. House Bill No. 574 (Committee Report No. 235), entitled

AN ACT DECLARING THE ISLANDS OF LAHUY, COTIVAS, GUINAHUAN, LUKSUHIN, MALIBAGAN AND MASAG, OFF THE NORTHEASTERN COAST OF THE MUNICIPALITY OF CARAMOAN, PROVINCE OF CAMARINES SUR AS TOURIST ZONES; and

4. House Bill No. 2072 (Committee Report No. 236), entitled

AN ACT DECLARING THE PROVINCE OF BOHOL AS AN ECO-CULTURAL TOURISM ZONE.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Pangilinan, only the titles of the bills were read without prejudice to the insertion of their full texts into the Record of the Senate

SPONSORSHIP SPEECH OF SENATOR GORDON

Upon motion of Senator Pangilinan, there being no objection, the sponsorship speech of Senator Gordon on House Bill Nos. 591, 786, 574 and 2072 was considered read into the Record of the Senate.

I am privileged today to sponsor Committee Reports No. 233, 234, 235 and 236, which propose to create tourism zones in Northern Samar, Camarines Sur and Bohol.

In this one brief speech, I am thus sponsoring four committee reports, and request my colleagues for the immediate approval of the same.

First, a clarification, the term "tourism zone" here is not being used in the sense in which I used it in Senate Bill No. 2138, the Tourism Act of 2007. In these measures, it is used in a generic sense; in the Tourism Act, it is a specialized term for tourism enterprise zones under the Tourism Enterprise Zone Authority.

What are these provinces to us? Northern Samar and Camarines Sur are among the poorest provinces in the country, a fact owed to their distance from the centers of commerce, and the annual torment of tempests. Bohol is a province that was also among the poorest, but has begun taking off by riding on the wave of tourism, an initiative that was achieved by my working closely with the leadership of Bohol during my stint as Secretary for Tourism. Yet, despite the disparities of these regions, they seek to embrace tourism in the hope that, in the case of Northern Samar and Camarines Sur, it will pump-prime their economies, and in Bohol's case, it will allow them to properly harness the boom they are experiencing, and utilize it to lead them into the future.

I have always been an advocate for tourism. I have always believed that tourism means jobs. Tourism means investment and opportunities. And I have always believed that tourism, if properly marshaled and harnessed, can spur economic and social growth for the 21st century.

These bills, as amended by your Committee on Tourism, will achieve the following:

First, it identifies these areas as having the potential for tourism development.

Second, it outlines general principles by which the leaders of these areas, the Department of Tourism and its attached agencies, can cooperate and draft and implement a tourism development plan for these areas that will complement the national tourism development master plan.

Third, it emphasizes that the development plan must protect and enhance the natural beauty of the area while preserving cultural heritage, in a manner that provides economic opportunities for the community, while creating a forum by which stakeholders can participate in steering the development of their communities.

Last, it allows for flexibility that, if and when the Tourism Act is passed, these measures will be compatible with the Tourism Act.

Indeed, our colleagues from the House of Representatives are fully aware that, without the

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crucial reforms that the Tourism Act will put in place, the potential of these areas – and not only of these areas, but of the Philippines as a whole – will never be fully realized. But these measures at least allow these communities to get their feet on the door of tourism opportunity and establish some direction for their development.

As I pointed out when I sponsored the Tourism Act, the tourism industry was identified more than 15 years ago by futurists Alvin Toffler and John Naisbitt as one of the core global industries for the 21st century. Other countries took their cue from them 15 years ago, while we have yet to even take the first step. We are behind in the global game. This is why I request the immediate approval of these measures.

SUSPENSION OF CONSIDERATION OF HOUSE BILL NOS. 591, 786, 574 AND 2072

Upon motion of Senator Pangilinan, there being no objection, the Body suspended consideration of the bills.

COMMITTEE REPORT NO. 32 ON SENATE BILL NO. 2137 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2137 (Committee Report No. 32), entitled

AN ACT TO DEFINE AND PUNISH THE
CRIME OF TERRORISM AND CONSPIRACY TO COMMIT TERRORISM
AND OTHER ACTS INCIDENT THERE-
TO AND FOR OTHER PURPOSES.

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

Thereupon, the Chair recognized Senator Enrile, Sponsor of the measure.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 9:35 p.m.

RESUMPTION OF SESSION

At 9:36 p.m., the session was resumed.

MADRIGAL AMENDMENTS (Continuation)

On page 22, line 12, Senator Madrigal proposed to change the words and number "THREE (3) days" to THIRTY-SIX (36) HOURS.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

The period of detention of a person charged with or suspected of the crime of terrorism must be further reduced to 36 hours. Persons suspected or charged with terrorism are considered "enemies" of the State. More often than not, they are subjected to the brutalities of the law enforcers. Shortening the time for their period of detention is a preventive measure so that human rights violation on these suspects shall be minimized.

Senator Enrile declined the proposed amendment, saying that three days is just enough to draft the information, assemble the evidence and present it to the proper court. He underscored the importance of not putting too much pressure on the prosecution service as he warned that it might do a lousy job in preparing the information.

On the same page, line 17, after the word "MUST," Senator Madrigal proposed the insertion of the word ONLY.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment was being introduced to limit the cause of the arrest. The arrest must only result from the surveillance under Section 7 and examination of bank deposits under Section 27 of the Bill.

Senator Enrile declined the amendment, pointing out that in the course of the surveillance, other evidence and witnesses could still be produced, hence, the proposal would, in effect, foreclose the use of the evidence against the person committing the crime. *Enrile*

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On page 23, line 8, Senator Madrigal proposed the replacement of the word "QUESTIONING" with the phrase SEARCHING QUESTIONS AND ANSWERS.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

To be consistent with our earlier amendments on the need for the presence of a CA justice every step of the whole court process.

Senator Enrile did not accept the proposed amendment as the phrase is subject to different interpretations.

As proposed by Senator Madrigal and accepted by the Sponsor, there being no objection, the Body approved the following amendments:

1. On page 23, line 11, after the word "WHY," insert a period (.) and delete the word "AND," on line 12, delete the word "THEN"; and between the words "SHALL" AND "SUBMIT," insert the word THEN;
2. On the same page, line 16, as modified by the Sponsor, after the word "SHALL," insert the word FORTHWITH;
3. On the same page, line 17, after the number "(3)," insert the word CALENDAR;

SUSPENSION OF SESSION

Upon motion of Senator Madrigal, the session was suspended.

It was 9:45 p.m.

RESUMPTION OF SESSION

At 9:46 p.m., the session was resumed.

4. On line 17, replace the word "DAY" with TIME;
5. On line 18, after the word "RESIDENCE," insert the words OR OFFICE;
6. On page 24, line 9, replace the word "THE" with ANY;

On page 24, lines 14 and 15, Senator Madrigal proposed the substitution of the word and number "THREE (3) DAYS" with FORTY-EIGHT (48) HOURS.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

The period of detention of a person charged with or suspected of the crime of terrorism must be further reduced to thirty-six hours. Persons suspected or charged with terrorism are considered "enemies" of the State. More often than not, they are subjected to the brutalities of the law enforcers. Shortening the time for their period of detention is a preventive measure so that human rights violation on these suspects shall be minimized.

Senator Enrile declined to accept the amendment.

7. On page 25, line 4, replace the word "MAY" with SHALL;

On page 26, line 7, Senator Madrigal proposed the deletion of the words "SUSPECTED OF," to be consistent with earlier amendments.

Senator Enrile declined the amendment because it would, in effect, do away with one of two possible situations: 1) a person may be apprehended and charged; or 2) a person may be apprehended but not charged.

8. On page 27, line 4, after the word "COUNSEL," insert the words OF CHOICE;
9. On the same page, line 9, after the word "PRIVATELY," add the words WITHOUT RESTRICTIONS;
10. On the same page, line 11, after the word "physicians," add the words OF CHOICE.

On page 27, line 24, Senator Madrigal proposed to rewrite the phrase "OFFICER OR HEAD OR LEADER OF THE LAW ENFORCEMENT" to OFFICER, HEAD, SUPERIOR OR LEADER OF THE LAW ENFORCEMENT.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

This amendment is being introduced so the head of the police or the military shall be equally liable for the faults of their subordinates. *AS*

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Senator Enrile declined the amendment, stating that a "superior" could go all the way to the President. He believed that it is not fair to impose command responsibility on the law enforcement units because criminal responsibility is personal; and unless there is an indication by clear evidence that the superior is involved in any crime, he should not be held liable.

11. On page 28, line 15, after the word "NIGHT," add the phrase WITHOUT ANY FORM OF RESTRICTION;
12. On page 29, line 20, after the word "DELAY," add the words OR RESTRICTION and a comma (,);
13. On page 30, line 9, after the word "inflict," add the words ANY FORM OF.

Asked by Senator Enrile on the different forms of physical pain, Senator Madrigal said that these include such physical pain brought on by the pulling of a tooth or a cigarette burn.

Asked if a smirk by a custodial officer to a detained person would be a form of physical torment, Senator Madrigal said that it might be a form of mental torment.

SUSPENSION OF SESSION

Upon motion of Senator Madrigal, the session was suspended.

It was 10:04 p.m.

RESUMPTION OF SESSION

At 10:10 p.m., the session was resumed.

Upon resumption, Senator Pangilinan said that Senator Madrigal has requested some time to reconcile the two versions of the anti-terrorism bill.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2137

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

COMMITTEE REPORT NO. 109 ON SENATE BILL NO. 2479

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on

Second Reading, of Senate Bill No. 2479 (Committee Report No. 109), entitled

AN ACT ENHANCING REVENUE ADMINISTRATION AND COLLECTION BY GRANTING AN AMNESTY ON ALL UNPAID INTERNAL REVENUE TAXES IMPOSED BY THE NATIONAL GOVERNMENT FOR TAXABLE YEAR 2005 AND PRIOR YEARS.

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

Thereupon, the Chair recognized Senator Recto, Sponsor of the measure.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

There being no interpellation, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of interpellations and proceeded to the period of committee amendments.

SUSPENSION OF SESSION

Upon motion of Senator Recto, the session was suspended.

It was 10:12 p.m.

RESUMPTION OF SESSION

At 10:16 p.m., the session was resumed.

COMMITTEE AMENDMENTS

As proposed by Senator Recto, there being no objection, the Body approved the following committee amendments:

1. On page 1, line 11, and wherever found in the bill, replace the word and number four (4) with SIX (6);
2. On page 2, line 23, and wherever found in the bill, replace the figure "10%" with "5%";
3. On the same page and line, between the words "resident" and "aliens," insert the word NONRESIDENT;
4. On page 3, after line 16, insert a new subparagraph (d) to read as follows:

(D) TAXPAYERS WHO FILED THEIR BALANCE SHEET/SALN TOGETHER WITH THEIR INCOME TAX RETURNS FOR 2005 AND WHO DESIRE TO AVAIL OF THE TAX AMNESTY UNDER THIS ACT SHALL AMEND SUCH PREVIOUSLY FILED STATEMENTS BY INCLUDING STILL UNDECLARED ASSETS AND/OR LIABILITIES AND PAY AN AMNESTY TAX EQUAL TO 5% BASED ON THE RESULTING INCREASE IN NET WORTH; *PROVIDED FURTHER*, THAT SUCH TAX WILL LIKEWISE BE CATEGORIZED IN ACCORDANCE WITH AND SUBJECTED TO THE MINIMUM AMOUNTS OF AMNESTY TAX PRESCRIBED UNDER THE PROVISIONS OF THIS SECTION.; and

5. On page 5, line 14, replace the number "12" with "10."

TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS

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

TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

There being no individual amendment, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of individual amendments.

APPROVAL OF SENATE BILL NO. 2479 ON SECOND READING

Submitted to a vote, there being no objection, Senate Bill No. 2479 was approved on Second Reading.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2479

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

SECOND ADDITIONAL REFERENCE OF BUSINESS

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

COMMITTEE REPORTS

Committee Report No. 250, submitted jointly by the Committees on Agriculture and Food; and Finance, on House Bill No. 5849, introduced by Representatives Abayon and Noel, entitled

AN ACT ESTABLISHING A MARINE FISHERIES LABORATORY IN THE MUNICIPALITY OF SAN JOSE, PROVINCE OF NORTHERN SAMAR, AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR,

recommending its approval without amendment.

Sponsor: Senator Magsaysay Jr.

To the Calendar for Ordinary Business

Committee Report No. 251, submitted jointly by the Committees on Agriculture and Food; and Finance, on House Bill No. 5840, introduced by Representatives Villafuerte and Gidaya, entitled

AN ACT TO ESTABLISH AQUATIC RESEARCH AND EXPERIMENTAL BREEDING STATIONS IN SUITABLE MUNICIPALITIES IN THE PROVINCE OF CAMARINES SUR FOR THE CULTURE, BREEDING AND PROPAGATION OF MUDFISH (DALAG), NATIVE HITO, GURAMI AND FRESHWATER SHRIMP, AND FOR OTHER PURPOSES,

recommending its approval with amendments.

Sponsor: Senator Magsaysay Jr.

To the Calendar for Ordinary Business

Committee Report No. 252, submitted jointly by the Committees on Agriculture and Food; and Finance, on House Bill No. 5841, introduced by Representative Villafuerte, entitled

AN ACT TO ESTABLISH AN OYSTER AND MUSSEL FARM IN THE MUNICIPALITY OF CALABANGA, PROVINCE OF CAMARINES SUR, *AS*

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APPROPRIATING FUNDS THEREFOR
AND FOR OTHER PURPOSES,

recommending its approval with amendments.

Sponsor: Senator Magsaysay Jr.

To the Calendar for Ordinary Business

Committee Report No. 253, submitted jointly by the Committees on Agriculture and Food; and Finance, on House Bill No. 5850, introduced by Representative Angara, entitled

AN ACT ESTABLISHING A MARINE
RESEARCH AND BREEDING CENTER
IN THE MUNICIPALITY OF BALER,
PROVINCE OF AURORA, APPROPRIATING FUNDS THEREFOR AND
FOR OTHER PURPOSES,

recommending its approval without amendment.

Sponsor: Senator Magsaysay Jr.

To the Calendar for Ordinary Business

Committee Report No. 254, submitted jointly by the Committees on Agriculture and Food; and Finance, on House Bill No. 5855, introduced by Representatives Figueroa and Noel, entitled

AN ACT ESTABLISHING FISHERY
AND RESEARCH CENTERS IN
EACH OF THE MUNICIPALITIES OF
BASEY, CALBIGA, CATBALOGAN,
DARAM, JIABONG, MARABUT,
MOTIONG, PARANAS, PINABACDAO,
SAN SEBASTIAN, STA. RITA, TALA-
LORA, VILLAREAL AND ZUMARRA-
GA, ALL IN THE PROVINCE OF
SAMAR AND APPROPRIATING
FUNDS THEREFOR,

recommending its approval with amendments.

Sponsor: Senator Magsaysay Jr.

To the Calendar for Ordinary Business

Committee Report No. 255, submitted jointly by the Committees on Agriculture and Food; and Finance, on House Bill No. 5852, introduced by Representative Firmalo, entitled

AN ACT ESTABLISHING A MARINE
RESEARCH AND BREEDING
CENTER IN THE MUNICIPALITY
OF ODIONGAN, PROVINCE OF
ROMBLON, APPROPRIATING FUNDS
THEREFOR AND FOR OTHER
PURPOSES,

recommending its approval without amendment.

Sponsor: Senator Magsaysay Jr.

To the Calendar for Ordinary Business

Committee Report No. 256, submitted by the Committee on Justice and Human Rights, on House Bill No. 2454, introduced by Representative De Venecia, *et al.*, entitled

AN ACT GRANTING PHILIPPINE
CITIZENSHIP TO MR. JOSE R.
RODRIGUEZ,

recommending its approval without amendment.

Sponsor: Senator Enrile

To the Calendar for Ordinary Business

Committee Report No. 257, prepared and submitted jointly by the Committees on Civil Service and Government Reorganization; Ways and Means; and Trade and Commerce, on Senate Bill No. 2597 with Senators Gordon, Pimentel Jr., Lacson, Magsaysay Jr. and Mar Roxas as authors thereof, entitled

AN ACT AMENDING REPUBLIC ACT
NO. 9280 OTHERWISE KNOWN AS
THE CUSTOMS BROKERS ACT OF
2004, AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 1740, 2036, and 2583.

Sponsor: Senator Lacson

To the Calendar for Ordinary Business

**COMMITTEE REPORT NO. 34
ON SENATE BILL NO. 2137
(Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on

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Second Reading, of Senate Bill No. 2137 (Committee Report No. 34), entitled

AN ACT TO DEFINE AND PUNISH THE
CRIMES OF TERRORISM AND
CONSPIRACY TO COMMIT TERRO-
RISM AND OTHER ACTS INCIDENT
THERETO AND FOR OTHER
PURPOSES.

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

The Chair recognized Senator Enrile, Sponsor of the measure, and Senator Madrigal for the continuation of her amendments.

MADRIGAL AMENDMENTS
(Continuation)

On page 31, Senator Madrigal proposed the deletion of the words "THE COURT" on line 17 up to the word "ACCUSED" on line 17 of page 32 and in lieu thereof, the insertion of the following: THE RIGHT TO TRAVEL BY THE ACCUSED SHALL BE RESPECTED AND SHALL NOT BE RESTRICTED CONSISTENT WITH SECTION 6, ARTICLE III OF THE CONSTITUTION.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

The amendment was introduced to be consistent with the justifications in the above-mentioned provisions.

Senator Enrile did not accept the amendment, saying that the court has the right to control the movement of a person who has already been charged.

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

1. On page 32, line 24, after the word "CAUSE," insert the phrase IN A HEARING DULY CALLED FOR THAT PURPOSE.

On page 33, line 2, after the word "WITH," Senator Madrigal proposed the deletion of the words

"OR SUSPECTED OF," to be consistent with earlier amendments.

Senator Enrile declined the amendment because the provision refers to two situations where a person has already been charged and a person has not yet been charged but is suspected of the crime of terrorism.

2. On page 33, line 5, after the word "SUCH," insert the phrase JUDICIALLY DECLARED AND OUTLAWED ORGANIZATION;
3. On the same page, line 9, after the word "AUTHORIZED," insert the words IN WRITING.
4. On the same page, lines 14, replace the word "desired" with RELEVANT;
5. On page 37, lines 24, replace the word "desired" with RELEVANT;

On page 35, line 9, Senator Madrigal proposed to delete the word "freezing."

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

The deletion of the word "freezing" is aimed at protecting the right of the person charged or suspected of the crime of terrorism. At the time of examining his bank accounts, he is only a suspect and is not yet guilty of any crime. Freezing his account is an unnecessary punishment for a crime he or she may not have committed.

Senator Enrile did not accept the proposed amendment as he noted that the bank account of a person charged or suspected of the crime of terrorism has to be frozen. However, he noted that this does not mean deprivation of property as the person could still withdraw money to sufficiently satisfy his needs.

6. On page 36, line 9, after the word "such," insert the words JUDICIALLY DECLARED;
7. On page 38, lines 17 and 21, after the word "PERSON," insert the words IN WRITING;
8. On page 41, line 9, between the words "TO" and "REMOVE," insert the word COPY and a comma (,);
9. On the same page, line 13, between the words "WHO" and "REMOVES," insert the word COPIES and a comma (,);

10. On page 42, line 12, after the word "NOTIFY," insert the words IN WRITING;
11. On the same page, line 17, after the word "CONCERNED," insert the phrase NOT LATER THAN THREE (3) DAYS BEFORE THE SCHEDULED OPENING;

SUSPENSION OF SESSION

Upon motion of Senator Madrigal, the session was suspended.

It was 10:45 p.m.

RESUMPTION OF SESSION

At 10:46 p.m., the session was resumed.

12. On page 45, line 6, after the word "such," insert the phrase JUDICIALLY DECLARED AND OUTLAWED ORGANIZATION;
13. On page 45, line 13, after the word "Affidavits," insert the words "AND USE HEREIN."
14. On page 48, line 11, after the period (.), insert the sentence THE FILING OF ANY APPEAL ON MOTION FOR RECONSIDERATION SHALL NOT STATE THE RELEASE OF SAID FUNDS FROM SEIZURE, SEQUESTRATION AND FREEZING;

On page 53, line 19, after the word "advisor," Senator Madrigal proposed to insert the following: (8) CHAIRMAN OF THE COMMISSION OF HUMAN RIGHTS, (9) A RETIRED JUSTICE OF THE SUPREME COURT; AND (10) TWO (2) MEMBERS TO BE NOMINATED BY THE INTEGRATED BAR OF THE PHILIPPINES AND THE ACADEME.

Acting on Senator Madrigal's request, upon direction of the Chair, inserted hereunder is the justification for the proposed amendment:

Justification:

The composition of the Anti-Terrorism Council must include the Chairman of the Commission on Human Rights, a retired member of the Supreme Court and two nominees of the Integrated Bar of the Philippines. The purpose of this is to dilute the composition of the Council, instead of limiting it to the President's cabinet members.

Senator Enrile did not accept the proposed amendment as it would inhibit the Commission of Human Rights from challenging any violation of human rights by the operating units of the Council.

Wherever appropriate in the bill, Senator Madrigal proposed the insertion of the following provision:

CREATION OF AN INDEPENDENT COUNSEL. TO SAFEGUARD HUMAN RIGHTS IN THE COURT OF APPEALS ON MATTERS INVOLVING THIS ACT, AN INDEPENDENT COUNSEL'S OFFICE IS HEREBY CREATED.

Upon queries, Senator Madrigal explained that the independent counsel is to be appointed by the Supreme Court and his function is to monitor compliance with the provisions of the Act.

Senator Enrile stressed, however, that the person accused under the Act is entitled to have his own counsel and the government, on the other hand, has its own prosecution arm. Besides, he pointed out that there is an oversight committee to be composed of members of Congress, and the Commission on Human Rights shall serve as an independent watchdog.

14. As modified by Senator Pimentel and the Sponsor, subject to style, wherever appropriate in the bill, insert the following provision: THE CONGRESSIONAL OVERSIGHT COMMITTEE SHALL HAVE THE RIGHT TO DESIGNATE AN INDEPENDENT COUNSEL OF ITS OWN.

PIMENTEL AMENDMENTS

At the instance of Senator Pimentel, as proposed by the Sponsor, there being no objection, the Body approved the following amendments, one after the other:

1. On page 47, line 7, delete the phrase "SHALL BE GUILTY OF AN OFFENSE AND";
2. On page 48, line 19, replace the words and figures "FIFTY THOUSAND PESOS (P50,000.00)" with FIVE HUNDRED THOUSAND PESOS (P500,000.00);
3. On page 49, line 12, and lines 20 and 21, delete the phrase "be guilty of an offense and shall";
4. On page 53, delete line 23 up to the period (.) on line 2 of page 54;

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5. On page 54, as a matter of style, renumber "Section 51" as Section 52 and "Section 52" as Section 51; and
6. On page 65, line 19, after the word "TIME," insert the phrase FOR SEVEN (7) DAYS.

Senator Enrile stated that the editorial amendments would be reflected in the February 6, 2007 copy of the bill.

REQUEST OF SENATOR MADRIGAL

Senator Madrigal requested that the explanation to her amendments be inserted into the Journal.

TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

There being no other individual amendment, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of individual amendments.

APPROVAL OF SENATE BILL NO. 2137 ON SECOND READING

Submitted to a vote, and with the majority voting in favor, Senate Bill No. 2137 was approved on Second Reading.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2137

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

COMMITTEE REPORT NO. 35 ON SENATE BILL NO. 2138 (Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2138 (Committee Report No. 35), entitled

AN ACT DECLARING A NATIONAL POLICY FOR TOURISM AS THE PRIMARY ENGINE OF INVESTMENT, EMPLOYMENT, GROWTH AND NATIONAL DEVELOPMENT, REORGANIZING THE DEPARTMENT OF TOURISM AND ITS ATTACHED

AGENCIES TO EFFECTIVELY AND EFFICIENTLY IMPLEMENT THAT POLICY, PROVIDING NECESSARY INCENTIVES FOR INVESTMENT AND APPROPRIATING FUNDS THEREFOR.

Thereupon, the Chair recognized Senator Gordon, Sponsor of the measure, who said that Senator Drilon would continue his proposed amendments to the bill the next day.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 11:04 p.m.

RESUMPTION OF SESSION

At 11:04 p.m., the session was resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2138

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

SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 257 on Senate Bill No. 2597 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 257 ON SENATE BILL NO. 2597

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2597 (Committee Report No. 257), entitled

AN ACT AMENDING REPUBLIC ACT NO. 9280 OTHERWISE KNOWN AS THE CUSTOMS BROKERS ACT OF 2004, AND FOR OTHER PURPOSES.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon ~~15~~

motion of Senator Pangilinan, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

SPONSORSHIP SPEECH OF SENATOR LACSON

At the instance of Senator Lacson, there being no objection, his sponsorship speech was considered read into the Record of the Senate.

Following is the full text of Senator Lacson's sponsorship speech on Senate Bill No. 2597:

It is my honor to sponsor before this Chamber Senate Bill No. 2597, under Committee Report No. 257, entitled "An Act Amending Republic Act No. 9280 Otherwise Known As The Customs Brokers Act Of 2004, And For Other Purposes."

Globalization is the only key to survival in today's business world. In the fast-paced business arena, it will surely be disadvantageous for a country to be lagging behind due to restrictive statutory controls. As lawmakers, we must not only look at the business aspect but analyze our economic conditions as a whole. It is vital that we put a premium in protecting our local economy and, at the same time, recognize the need to participate in the global market.

The passage of Republic Act No. 9280 or the Customs Brokers Act of 2004 served to uplift customs brokers as a profession by providing a climate conducive to the practice that will maximize their capability and potential. As defined under the said Act, a customs broker is any person who is a bona fide holder of a certificate of registration/professional identification card issued by the Professional Regulatory Board and the Professional Regulation Commission.

While the intention behind the enactment of the Customs Brokers Act of 2004 is noble, the said law produced a negative impact on the industry – instead of facilitating trade, it has established barriers to trade. The present proposed measure aims to correct this unintended consequence.

The controversial provision responsible for this unfortunate occurrence is Section 29, which prohibits any firm, company or association from being registered or licensed as such for the practice of customs brokers profession. Although the provision as it reads presents no real concern, the problem lies in the interpretation given to it by the responsible agencies of the

government. Section 29 was understood as prohibiting companies or firms from employing customs brokers and thereby crippling their business in the process. When the law came into effect, firms, companies, or associations engaged in various industries, where customs brokerage is a key factor, suffered several setbacks. Some of the inefficiencies that resulted from the implementation of the law are as follows:

- ♦ increase in manufacturing costs;
- ♦ slower turn-around time of materials and finished goods;
- ♦ loss of control and responsibility;
- ♦ loss of goods and smuggling a possible import-export crisis;
- ♦ nullification of computerization initiatives in the trading market; and
- ♦ global initiatives and procedures on anti-terrorism will be seriously impaired like the automated manifest system (AMS).

The simplicity and speed of bringing goods from origin to destination using the technologies afforded by logistics and multimodalism where transport, customs clearance and delivery are handled by one single transport operator in a single transport chain under a one-stop shop arrangement is the type of system desired by the business community. Unfortunately, unless the present law is amended, this type of set-up will be impossible. Instead, what will happen is that a single customs broker operating by himself would have to be inserted in this chain. Trade facilitation will thus be replaced by a time consuming process accompanied by the attendant increase in costs caused by segmented transport and delivery. Moreover, big companies are uneasy about entrusting their customs clearance requirements to single brokers. They argue that single brokers cannot comply with the bonding, security, financial, and transport requirements of these large companies.

Under the proposed amendment to RA 9280, Section 29 shall read as follows:

SEC. 29. PROHIBITION AGAINST CORPORATE PRACTICE. – THE PRACTICE OF CUSTOMS BROKER IS A PROFESSIONAL SERVICE, ADMISSION TO WHICH SHALL BE DETERMINED UPON THE BASIS OF INDIVIDUAL AND PERSONAL QUALIFICATIONS. NO FIRM, COMPANY OR ASSOCIATION MAY BE REGISTERED OR LICENSED AS SUCH FOR THE

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**PRACTICE OF CUSTOMS BROKERS
PROFESSION.**

NOTHING IN THIS ACT SHALL PROHIBIT A CORPORATION FROM HIRING THE SERVICES OF AN IN-HOUSE CUSTOMS BROKER FOR PURPOSES OF ACCREDITATION BY THE BUREAU OF CUSTOMS AND FACILITATION OF THE ACTIVITIES MENTIONED IN SEC. 6.

The amendment was reached after a compromise was made between the disagreeing parties concerned. This amendment will preserve the sanctity and exclusivity of the practice of the profession to duly licensed customs brokers and, at the same time, clarifies that corporations or firms may engage the services of customs brokers in pursuit of the conduct of its business.

The smooth and speedy flow of goods into and outside the country should not be hampered but should be facilitated as much as possible. The government ought to respond by enacting appropriate laws that will enhance the flow of commerce, instead of creating roadblocks to our own progress.

It is for these reasons that approval of this proposed measure is earnestly requested.

**SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 2597**

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

**CONFERENCE COMMITTEE
ON SENATE BILL NO. 2532**

Upon nomination by Senator Pangilinan, there being no objection, the Chair designated Senators Cayetano, Magsaysay and Flavio, for the Majority, and Senators Osmeña and Ejercito Estrada (J), for the Minority, as members of the Senate panel in the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 2532 (Central Cebu Protected Landscape) and its counterpart House Bill No. 4682.

**THIRD ADDITIONAL
REFERENCE OF BUSINESS**

The Deputy Secretary for Legislation read the following Committee Report which the Chair assigned to the Calendar for Ordinary Business:

Committee Report No. 258, submitted jointly by the Committees on Public Order and Illegal Drugs; and Local Government re

Privilege Speech of Sen. Franklin M. Drilon and the interpellations thereon, delivered on January 22, 2007, entitled "A SEASON OF SHAME"; Privilege Speech of Sen. Alfredo S. Lim delivered on January 22, 2007, entitled "WHAT ARE WE IN POWER FOR?"; and Proposed Senate Resolution No. 609, introduced by Senator Drilon, entitled: "RESOLUTION DIRECTING THE SENATE COMMITTEES ON PUBLIC ORDER AND ILLEGAL DRUGS; AND LOCAL GOVERNMENT TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE LAWS, LEGAL PROCESSES, AND SYSTEM FOR THE ENFORCEMENT OF ORDERS FROM THE OMBUDSMAN AFFECTING ELECTED LOCAL GOVERNMENT OFFICIALS IN LIGHT OF THE VIOLENT ENFORCEMENT BY THE PHILIPPINE NATIONAL POLICE, UPON ORDERS OF THE DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT, OF THE DISMISSAL OF ILOILO PROVINCIAL GOVERNOR NIEL D. TUPAS SR."

recommending the adoption of the recommendations and their immediate implementation.

Sponsors: Senators Drilon, Lim and the Members of the Committees on Public Order and Illegal Drugs; and Local Government

CHANGE OF REFERRAL

Upon motion of Senator Pangilinan, there being no objection, the Chair referred Senate Bill No. 2855, which was originally referred to the Committee on Public Information and Mass Media, instead to the Committee on Youth, Women and Family Relations.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 11:08 p.m.

RESUMPTION OF SESSION

At 11:09 p.m., the session was resumed.

**COMMITTEE REPORT NO. 257
ON SENATE BILL NO. 2597**

(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2597 (Committee Report No. 257), entitled

AN ACT AMENDING REPUBLIC ACT
NO. 9280 OTHERWISE KNOWN AS
THE CUSTOMS BROKERS ACT OF
2004, AND FOR OTHER PURPOSES.

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

**TERMINATION OF THE PERIOD
OF INTERPELLATIONS**

There being no interpellation, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of interpellations and proceeded to the period of amendments.

**TERMINATION OF THE PERIOD
OF AMENDMENTS**

There being no committee or individual amendment, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of amendments.

**APPROVAL OF SENATE BILL NO. 2597
ON SECOND READING**

Submitted to a vote, there being no objection, Senate Bill No. 2597 was approved on Second Reading.

**SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 2597**

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

MANIFESTATION OF SENATOR MADRIGAL

Senator Madrigal stated that she had made reservation to interpellate on certain bills and she was ready to do so the next day.

ADJOURNMENT OF SESSION

Upon motion of Senator Pangilinan, there being no objection, President Pro Tempore Flavio declared the session adjourned until three o'clock in the afternoon of the following day.

It was 11:11 p.m.

I hereby certify to the correctness of the foregoing.

OSCAR G. YABES

Secretary of the Senate

Approved on June 4, 2007