



**REPUBLIC OF THE PHILIPPINES**

**S e n a t e**

**Pasay City**

# **Journal**

**SESSION NO. 86**

Wednesday, June 4, 2008

**FOURTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 86**  
Wednesday, June 4, 2008

**CALL TO ORDER**

At 3:04 p.m., the Senate President, Hon. Manny Villar, called the session to order.

**PRAYER**

Sen. Francis N. Pangilinan led the prayer, to wit:

*Let us place ourselves in the presence of the God Almighty.*

O God, who gathers, You are the one who brings us together, to challenge us to live Your compassion; and to live Your justice.

We pray that as we gather, we will be touched by Your passionate love for this fragile planet, for the peoples of the world, whatever their culture, religion or political system, and for all those who suffer poverty and exclusion.

We ask You these in the Name of Jesus.

Amen

**ROLL CALL**

Upon direction of the Chair, the Secretary of the Senate, Emma Lirio-Reyes, called the roll, to which the following senators responded:

Aquino III, B. S. C	Lacson, P. M.
Arroyo, J. P.	Lapid, M. L. M.
Biazon, R. G.	Pangilinan, F. N.
Defensor Santiago, M.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Villar, M.
Escudero, F. J. G.	Zubiri, J. M. F
Honasan, G. B.	

With 13 senators present, the Chair declared the presence of a quorum.

Senators Angara, Cayetano (A), Cayetano (P), Enrile, Gordon, Legarda, Madrigal, Revilla and Roxas arrived after the roll call.

Senator Trillanes was unable to attend the session as he is under detention.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 3:06 p.m.*

**RESUMPTION OF SESSION**

At 3:06 p.m., the session was resumed.


**DEFERMENT OF THE APPROVAL OF THE JOURNAL**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 85.

**REFERENCE OF BUSINESS**

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

**MESSAGES FROM THE HOUSE OF REPRESENTATIVES**

Letter from the Secretary General of the House of Representatives, informing the Senate that on 

May 28, 2008, the House of Representatives adopted Senate Bill No. 2293, as an amendment to House Bill No. 3971, entitled

AN ACT GRANTING TAX RELIEF FOR INDIVIDUAL TAXPAYERS BY REPEALING SECTION 34(L) AND AMENDING SECTIONS 22, 24, 34, 35 AND 79 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES.

**To the Archives**

Letter from the Secretary General of the House of Representatives, informing the Senate that on May 28, 2008, the House of Representatives requested a conference and designated Representatives Durano VI, Daza, Enverga, Cagas IV, Angara, Lapus, Romulo, Singson and Chipeco as its conferees to the Bicameral Conference Committee, on the disagreeing provisions of House Bill No. 3754 and Senate Bill No. 1882, both entitled

AN ACT ESTABLISHING A PROVIDENT PERSONAL SAVINGS PLAN KNOWN AS THE PERSONAL EQUITY AND RETIREMENT ACCOUNT (PERA).

**To the Committee on Rules**

**BILLS ON FIRST READING**

Senate Bill No. 2370, entitled

AN ACT DEFINING THE USE AND PROTECTION OF THE RED CROSS, RED CRESCENT AND RED CRYSTAL EMBLEMS

Introduced by Senator Gordon

**To the Committees on National Defense and Security; and Health and Demography**

Senate Bill No. 2371, entitled

AN ACT PROCLAIMING THE RIGHTS AND OBLIGATIONS OF PATIENTS, PROVIDING A GRIEVANCE MECHANISM THEREOF AND FOR OTHER PURPOSES

Introduced by Senator Compañera Pia S. Cayetano

**To the Committees on Health and Demography; and Social Justice, Welfare and Rural Development**

Senate Bill No. 2372, entitled

AN ACT REGULATING THE PRACTICE OF RESPIRATORY THERAPY AND CREATING THE BOARD OF EXAMINERS FOR RESPIRATORY THERAPISTS, PROVIDING FOR ITS STRUCTURE AND ORGANIZATION, AND FOR OTHER PURPOSES

Introduced by Senator Antonio "Sonny" F. Trillanes IV

**To the Committees on Civil Service and Government Reorganization; and Finance**

Senate Bill No. 2373, entitled

AN ACT PROVIDING FOR THE MAGNA CARTA FOR SENIOR CITIZENS AND FOR OTHER PURPOSES

Introduced by Senator Antonio "Sonny" F. Trillanes IV

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

**COMMUNICATION**

Letter from Executive Secretary Eduardo R. Ermita of the Office of the President of the Philippines, dated June 3, 2008, transmitting to the Senate the letter of even date of Her Excellency, President Gloria Macapagal-Arroyo, addressed to Speaker Prospero C. Nograles Jr. of the House of Representatives, certifying to the necessity of the immediate enactment of House Bill No. 4077, entitled

AN ACT SUSTAINING THE IMPLEMENTATION OF THE COMPREHENSIVE AGRARIAN REFORM PROGRAM (CARP) EXTENDING THE ACQUISITION AND DISTRI- ~~BU~~

**BUTION OF ALL AGRICULTURAL  
LANDS, INSTITUTING NECESSARY  
REFORMS AND APPROPRIATING  
FUNDS THEREFOR,**

pursuant to the provisions of Article VI, Section 26(2) of the 1987 Constitution.

**To the Committee on Rules**

**CHANGE OF REFERRAL**

Senator Biazon requested that Senate Bill No. 2370 (Defining the Use and Protection of the Red Cross, Red Crescent and Red Crystal Emblems), which was originally referred to the Committee on National Defense and Security, be referred to another committee.

Upon motion of Senator Pangilinan, there being no objection, the Body approved the change of referral of Senate Bill No. 2370 from the Committee on National Defense and Security to the Committee on Rules.

But Senator Zubiri suggested that Senate Bill No. 2370 should also be referred to the Committee on National Defense and Security because it concerns issues of men and women in the military service as well as combat zones and conflict areas.

Upon motion of Senator Pangilinan, there being no objection the Chair referred the remarks of Senator Zubiri to the Committee on Rules.

**INQUIRY OF SENATOR LEGARDA**

Asked by Senator Legarda how her attendance for the day's session recorded, the Chair replied that she was recorded as having "arrived after the roll call."

Senator Legarda asked that she, along with other members such as Senators Defensor Santiago, Gordon and Enrile, not be marked "late" because they were attending the hearing of the Commission on Appointments at the time.

Senator Pangilinan suggested that the matter be referred to the Committee on Rules considering the ramifications of similar situations that may arise in the future if Senator Legarda's request is granted.

**REFERRAL TO COMMITTEE**

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the manifestation of Senator Legarda to the Committee on Rules.

**INSERTION OF PRIVILEGE SPEECH  
OF SENATOR PIMENTEL INTO THE  
JOURNAL AND RECORD OF THE SENATE**

Upon motion of Senator Pangilinan, there being no objection, the Body approved the insertion of the privilege speech of Senator Pimentel into the Journal and Record of the Senate.

**COMMITTEE REPORT NO. 51  
ON SENATE BILL NO. 2264  
(Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2264 (Committee Report No. 51), entitled

**AN ACT AMENDING THE COOPERA-  
TIVE CODE OF THE PHILIPPINES  
TO BE KNOWN AS THE PHILIP-  
PINE COOPERATIVE CODE OF 2008.**

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

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 3:14 p.m.*

**RESUMPTION OF SESSION**

At 3:18 p.m., the session was resumed.

**SUSPENSION OF CONSIDERATION  
OF SENATE BILL NO. 2264**

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

**COAUTHORS**

Senator Pangilinan manifested that Senator Arroyo and himself are coauthors of Senate Bill No. 2361 (Free Legal Assistance). *AS*

*rs*

## MANIFESTATION OF SENATOR PANGILINAN

Senator Pangilinan stated that Senator Pimentel earlier requested that his privilege speech be inserted into the Journal and Record of the Senate. However, he said that Senator Pimentel has decided that it would be more prudent and appropriate to deliver it.

## PRIVILEGE SPEECH OF SENATOR PIMENTEL

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

### TURNING THE ESOTERIC INTO THE EXOTERIC: THE BASELINES BILL ISSUE

I would like to state from the very outset that the issue is not whether or not the proponents of the bills to define our baselines are holders of masteral or doctoral degrees in international law, whether public or private.

If such degrees were required before a senator of the land may propose bills dealing with international law, I doubt if one out of 24 of the Senate would qualify.

Happily, the same issue is only one of procedure. And in this regard, all senators can have their say.

Which would come first, the Commission to Study or the bill to define the baselines of our territory in accordance with the United Nations Convention on the Law on the Sea (UNCLOS)?

#### *Rules*

As backgrounders, may I recall that in enacting laws, our legislature usually starts with bills proposing certain legislative measures. That is what the Rules provide:

- 1) Bills are filed;
- 2) The bills are referred to the committees;
- 3) The committees will hear the bills; and
- 4) The committees will submit committee reports to the plenary of the Senate for its consideration.

In the hearing of the bills in committee, resource persons and experts are called to dissect, scrutinize and suggest possible changes. The committee, if it believes that the suggestions are good, would accept the proposals after

which committee reports are made and are reported to the plenary for discussion, debate and final legislative action.

That is what the Rules provide and I suppose that what was in the minds of the proponents when they filed separate bills to define the baselines of our national territory was exactly what the Rules provided for.

They wanted to have the bills processed according to our Rules, namely: hearings are conducted, resource persons and experts are heard, a committee report follows for final action through debate and discussion on the floor of the Senate.

I would assume good faith on the part of the proponents.

#### *Reverse procedure*

Senator Defensor Santiago, unfortunately, wants to reverse the process. She wants a commission to be formed to study and recommend the course of action that we should take regarding the definition of the baselines of the country.

She urges us to pass a joint resolution to create a commission to help define our baselines.

I was one of those she asked to sign the resolution and I did.

But even as I signed her proposal to enact a joint resolution, I did not give up my right to ask questions of her whenever the resolution is brought up for discussion. She brought up the issue yesterday in a privilege statement. But out of consideration for other matters in the agenda, she asked not to be interpellated.

Had we been allowed to interpellate her, we would have brought up the issues that I have started to discuss in the opening lines of this statement.

#### *Study commissions*

That said, may I recall that there were, at least, two major pieces of legislation in the old days of our legislature where commissions were created to propose amendments to existing laws for the guidance of legislatures, namely:

- 1) The panel to revise the Penal Code of the Philippines in the '30s; and
- 2) The commission to revise the Civil Code in the '50s. *AS*

*PS*

***Not unusual***

Therefore, what is proposed by Senator Santiago even if it is not the usual procedure in legislation, is not the first time that such a procedure was suggested in the halls of Congress.

If it is not that unusual, what is wrong with it?

There is nothing inherently wrong with the senator's proposal.

***Unravel the esoteric***

But considering the circumstances under which the proponents of the baselines bills are acting and under which the Senate has to act, we believe that the better part of prudence dictates that we should get the proper committee to act on the bills as the Rules provide. By following the strictures of UNCLOS and by following our rules, we may be able to unravel the mysteries of esoteric with the help of experts so that they would now become exoteric, mundane matters understood even by the *hoi polloi*.

***Without force***

In brief, there is nothing that inhibits us from asking experts in international law to help us do our job, and from using our common sense to define our baselines as best we can.

If we overextend our boundaries, I am sure there are procedures in international law sanctioned by the UN that can settle the matter without the use of force.

But are we more bound by the Treaty of Paris than by the UNCLOS?

Are unilateral declarations on our part defining our baselines binding on other nations now that UN has been formed and that UNCLOS has been ratified by more than a majority of the nations composing the UN?

Indeed, these are matters that experts, as well as non-experts, can answer. And the venue for raising those questions in the first instance is the proper committee where hearings are done.

***Hear all***

To repeat, there is nothing that requires us all to be knowledgeable on the same level as PhDs on any matter that we discuss. Otherwise, the Constitution would have foolishly required those degrees to be a part of the qualification of those who stand for election to the Senate.

I submit that despite our individual deficiencies in education, articulation, attitudes and interests, the views of all the members of the Senate are equally entitled to be heard – regardless of whether they are sound or unsound. That is one virtue that one has to live with if we want *our country to remain committed to the principles of democracy.*

**SUGGESTION OF SENATOR ROXAS**

Senator Roxas suggested that out of courtesy to Senator Defensor Santiago who was mentioned in the speech, the interpellations thereon be deferred until such time when she is present.

**REMARKS OF SENATOR BIAZON**

Relative to the baselines issue, Senator Biazon narrated that earlier that morning, when he asked the new chief of staff in a hearing of the Commission on Appointments, if he knew what orders are supposed to be issued to the Philippine Air Force and Philippine Navy to protect the country's territorial interests, he could not answer with certitude. He said that as a former soldier, he empathizes with soldiers whenever they are called to perform their duties because they risk their lives in the service of their country. He recalled certain incidents during his early years in the military service such as when he was ordered to effect an amphibious landing on one island which, under customary laws, does not belong to the Philippines, and it nearly sparked an international uproar; and the confrontation with foreign destroyers when he and his men tried to occupy the Kalayaan Group of Islands. He said that these incidents highlight the fact that the UNCLOS has given rise to disputes among countries as exemplified, most recently, by the confrontation between Vietnamese and Chinese ships that resulted in the sinking of two Vietnamese ships and the loss of more than 100 Vietnamese lives. In view thereof, he emphasized the need for government to define the extent of the country's contiguous zones which must be defended because the UNCLOS, he noted, provides that countries have rights over their exclusive economic zone. He stated that he had filed a baselines bill which is now pending in committee. He urged the Body to settle the issues so as not to put the armed forces in harm's way.

**REMARKS OF SENATOR PIMENTEL**

Senator Pimentel clarified that it was not his intention to criticize a colleague who is not present <sup>48</sup>

but he merely wanted to put on record certain matters. He said that he wanted to interpellate Senator Defensor Santiago in the previous day's session but he desisted because he did not want to prolong the proceedings.

Senator Roxas apologized to Senator Pimentel as he clarified that he wanted both proponents to ventilate the issue on the floor.

### **SUSPENSION OF THE PRIVILEGE HOUR**

Upon motion of Senator Pangilinan, there being no objection, the privilege hour was suspended and consideration of Senator Pimentel's privilege speech was also deferred.

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

At this juncture, Senator Pangilinan acknowledged the presence of Mr. Joe Datuin, grand prize winner in the International Sports and Art Contest; and representatives of the film and movie industry who came to support Senator Aquino's sponsorship speech on the bill amending the Local Government Code namely: Atty. Espiridion Laxa, Atty. Sherry Obiles; and Messrs. Ric Camaligan, Leo Martinez, Dominic Do, Wilson Cheng, Ed Gaudier, Dean Arriola, and Pablo Gomez.

### **QUESTION OF PRIVILEGE OF SENATOR BIAZON**

Rising to question of personal privilege, Senator Biazon disclosed that this morning, two elevators broke down, one stuck between two floors and the other refused to budge from the first floor, forcing the passengers, including himself, to negotiate several flights of stairs to reach their destination. He expressed concern that something untoward might happen one of these days. The GSIS, he stressed, should repair the defective elevators which could be undertaken during the *sine die* adjournment.

The Chair reiterated that representation has already been made with the GSIS and that the Senate has even volunteered to advance the money to buy elevators but negotiating the repairs has been difficult. It surmised that the power fluctuation in the morning probably caused the elevators to break down.

At this point, Senator Pangilinan informed the Body that there would be a caucus but Senator Angara asked to be given five minutes to discuss the amendments to Senate Bill No. 2077.

### **COMMITTEE REPORT NO. 39 ON SENATE BILL NO. 2077 (Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2077 (Committee Report No. 39), entitled

### **AN ACT ESTABLISHING THE PRE- NEED CODE OF 2008.**

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

The Chair recognized Senator Angara, Sponsor of the measure.

### **WORKING DRAFT**

Upon motion of Senator Angara, there being no objection, the version of the bill with the notation "as of June 4, 2008 11:00 a.m." was adopted by the Body as the working draft.

### **INDIVIDUAL AMENDMENTS**

As proposed by Senator Angara, there being no objection, the Body approved the following individual amendments submitted to the committee, one after the other:

1. On page 3, line 28, after the word "Commission," delete the words "The commission is";
2. On page 4, delete lines 1 to 4;
3. On page 5, delete lines 23 to 26;
4. On page 8, line 9, after the word "others," delete the words "be substantially interested in";
5. On the same page, delete the word "or" on line 10 and after the word "investment" on line 11, insert the words and figures IN EXCESS OF FIVE MILLION PESOS (P5,000,000);
6. On the same page, lines 13 to 16, after the word "With," delete the sentence "Interest

- of more than ten percent in the equity of corporation or business undertaking in which the pre-need companies' trust fund has an investment in or has a financial interest which shall be considered substantial.”;
7. On the same page, line 18, insert a comma (,) after the word “SHALL”;
  8. On the same page, line 19, before the word “have,” insert the phrase DIRECTLY OR INDIRECTLY and delete the phrase “a financial interest”;
  9. On the same page, line 20, before the preposition “of,” insert the words AN INVESTMENT and delete the words and figure “ten percent (10%),” and in lieu thereof, insert the words and figure FIVE MILLION PESOS (P5,000,000).
  10. On the same page, line 23, after the word “investment,” insert the phrase IN OR HAS A FINANCIAL INTEREST WITH;
  11. On page 11, delete lines 11 to 14, and in lieu thereof, insert the sentence SUCH REGISTRATION STATEMENTS AND SALES MATERIALS REQUIRED UNDER THIS SECTION SHALL CONTAIN THE APPROPRIATE RISK FACTORS AS MAY BE DETERMINED BY THE COMMISSION.

### REQUEST OF SENATOR ROXAS

Senator Roxas requested that he be given more time to study the documents, which he has just received from the SEC.

### SUSPENSION OF SESSION

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

*It was 3:46 p.m.*

### RESUMPTION OF SESSION

At 3:47 p.m., the session was resumed.

### FURTHER ANGARA AMENDMENTS

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

1. On page 21, line 10, change the words and figure “twenty five percent (25%)” to TWENTY PERCENT (20%); and
2. On the same page, line 21, after the word “fund,” replace the period (.) with a semicolon (;) and insert the following: “*PROVIDED, FINALLY, THAT THE COMMISSION, TAKING INTO CONSIDERATION ANY NEW CHANGE IN THE MARKET AND AFTER CONSULTATION WITH THE INDUSTRY STAKEHOLDERS, MAY SET ANOTHER PERCENTAGE REMIX.*”

### INQUIRIES OF SENATOR ROXAS

Senator Roxas argued that fixing the percentage allocation of the trust fund investments would, in effect, allow the SEC to determine another mix which could be very hazardous to the consumers. He pointed out that while many people have been failed by plans in the past, the new pre-need code should fix the prudential measures and not delegate such important matter to any single security.

Senator Angara explained that the “flexibility clause” was requested by the SEC on the basis of their experience that there were times when the SEC, after a public hearing, had to remix the percentage on the different categories of investment depending on the market. He believed that in a highly dynamic financial market where the architecture has completely changed, flexibility is necessary rather than writing the law in stone.

But Senator Roxas pointed out that there was too much flexibility in the financial market that led to the excesses. He believed that *too much flexibility* defeats the purpose of ensuring that prudential measures exist.

Asked when the last remix was, Senator Angara said that according to the SEC, the last remix was done this year and the remix before this was done eight years ago. Senator Roxas said that since remixes do not happen very often, the SEC can come back to Congress when the need arises. He stated that financial architects, as they have so proven internationally and domestically, have created all sorts of financial animals that led to several scams victimizing the poor people.

But Senator Angara pointed out the difficulty of passing a law in the Senate. He explained that

*ms*



the matter in question does not involve remixing of the total investment percentage. In the subcategory of equities, he explained that a 20%-investment of the trust fund is allowed and this can be reduced or increased by one percentage point.

Senator Roxas said that the amendment is on the real estate portion of the bill and his understanding is that the proposed percentage of 20% may be changed by the SEC. Senator Angara explained that lines 16 to 21 on page 21, including the proposed flexibility clause, would be applicable to the entire Section 28 (*Investment of the Trust fund*). Nonetheless, he suggested the insertion of a proviso that the SEC cannot do the change more often than every five years and that remixing cannot increase or decrease by two or three percentage points.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Roxas, the session was suspended.

*It was 3:58 p.m.*

#### **RESUMPTION OF SESSION**

At 4:38 p.m., the session was resumed.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2077**

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. 56 on Senate Bill No. 2325 from the Calendar for Ordinary Business to the Calendar for Special Orders.

#### **COMMITTEE REPORT NO. 56 ON SENATE BILL NO. 2325**

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2325 (Committee Report No. 56), entitled

AN ACT AMENDING SECTION 140(A)  
OF REPUBLIC ACT NO. 7160,

#### **OTHERWISE KNOWN AS "LOCAL GOVERNMENT CODE OF 1991."**

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 Aquino for the sponsorship.

At this point, Senator Aquino requested that Senator Legarda be allowed to deliver her cosponsorship speech.

#### **COSPONSORSHIP SPEECH OF SENATOR LEGARDA**

Preliminarily, Senator Legarda informed the Body that Senate Bill No. 71, a measure of the same intent as Senate Bill No. 2325, which she authored, was the first bill that she filed in this Congress.

In 2006, Senator Legarda pointed that P1,437,000,000 in total receipts were generated by locally produced movies; also, the local film industry directly employs not less than 300,000 Filipinos and contributes much to the domestic economic activity. But due to excessive taxation, she said, the local film industry's growth and competitiveness are greatly challenged.

Senator Legarda stated that under the existing laws, the local film industry is subject to the following taxes: 30% amusement tax on gross receipts from admission fees imposed by the provinces to be collected from the proprietors, lessees, or operators of theaters and cinemas; 5% withholding tax on producer's film share; 35% corporate income tax; and 12% value-added tax on producer's film share.

She stated that Senate Bill No. 2325 is envisioned to stimulate the local film industry by providing the much-needed tax relief on movie producers, theater operators and movie patrons; moreover, it would reduce the amusement tax imposed by local governments from the current level of not less than 30% to 10%. She observed that local films not only provide entertainment, but also promote culture and help the country achieve national identity and showcase the same to the rest of the world. She believed it is high time the state recognized the film

*YCS*

industry as a partner in promoting Filipino culture and fostering unity among Filipinos.

On this note, Senator Legarda urged the Members to fully support the immediate enactment of Senate Bill No. 2325.

#### **COSPONSORSHIP SPEECH OF SENATOR ESCUDERO**

Senator Escudero stated the Senate Bill No. 2325 recognizes the important role that the Philippine movie industry plays in shaping the culture and history of the country. Aside from the movie producers, theater owners and movie patrons, he said that the bill also helps those whose livelihood depends on the movie industry.

Stressing that Senate Bill No. 2325 aims to revive the dying Philippine movie industry, Senator Escudero earnestly urged the Body to support the early passage of the bill.

#### **COSPONSORSHIP SPEECH OF SENATE PRESIDENT VILLAR**

At this juncture, Senator Aquino requested that the cosponsorship speech of Senate President Villar be inserted into the Record.

#### **SPONSORSHIP SPEECH OF SENATOR AQUINO**

In sponsoring Senate Bill No. 2325, Senator Aquino delivered the following speech:

The Committee on Local Government has the honor to report out Committee Report No. 56 on Senate Bill No. 2325, which consolidates and substitutes Senate Bill Nos. 71, 717 and 1426 authored by Senators Legarda, Revilla and Villar.

The local film industry is presently caught in a downward spiral as illustrated by the following examples from the film sector.

In a study by the Philippine Institute for Development Studies on the Philippine Film Industry, Ms. Laurice Guillen-Feleo, CEO and chair of the Film Development Academy of the Philippines, said that in the 1960s, the Philippines was second only to India in film output. Today, India is still first, the United States is second, and the Philippines is the eighth. There was a time when the Philippines was making

300 films a year. In 2003, there were 86 films in 2004, there were only 54, and last year there were only 44.

The National Cinema Association of the Philippines recently reported to the Committee that 90% of all Filipino-owned movie theaters nationwide are losing money. According to them, this cumbersome trend has been going on for the past five years.

Likewise, the Movie Producers and Distributors Association stated that membership in the organization has dropped significantly over the last 15 years, from a high of 40 producers and distributors down to only three members today.

SM Cinema, which comprises approximately 50% of the total number of movie theaters nationwide, has not been breaking even in the past two to three years. According to their representative, SM Cinema pays rental fees unlike their competitor, Robinson Movieworld, that is not required to shoulder such fees but still losing money.

Several factors contribute to this decline: new age distractions such as cable televisions, home theaters and gaming consoles, have deviated the attention of the public away from the movie theater experience. The predominance of movie piracy in untaxed DVD formats has also discouraged film fanatics from spending on theater tickets. Moreover, live video streaming via the internet, which is a widespread phenomenon in today's modern world, offers another convenient way of watching films.

However, what stands out a principal reason for this deterioration is the heavy taxation burdening the Philippine film industry – the 30% amusement tax on gross receipts from admissions from tickets.

A situation therefore arises of seeming taxation to oblivion. The industry complains that they are charged more than sin taxes and they asked: "Are they also subject to behavior modification envisioned by the state?"

It has been said that the picture is worth a thousand words. Movie pictures are even more so.

Dr. Jose Rizal's works of *El Filibusterismo* and *Noli Me Tangere* gave us several lessons but I believe they were driven more forcefully and vividly when they were turned into a film.

We have had and we still continue to have this opportunity to impart positive Filipino values to our youth. If we do not or if we seek

not to reconsider this heavy burden on the film industry, we may lose that ability to shape our future by forming our youth today.

### COAUTHOR

Upon his request, Senator Zubiri was made coauthor of Senate Bill No. 2325. He manifested that he would submit a cosponsorship speech later on and that the same be inserted into the Record of the Senate.

### SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

*It was 4:57 p.m.*

### RESUMPTION OF SESSION

At 4:58 p.m., the session was resumed.

### MANIFESTATION OF SENATOR EJERCITO ESTRADA

At this juncture, Senator Ejercito Estrada manifested that he was withdrawing his coauthorship of the bill to avoid conflict of interest.

The Chair noted the withdrawal.

### SUSPENSION OF SESSION

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

*It was 5:20 p.m.*

### RESUMPTION OF SESSION

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

### INTERPELLATION OF SENATOR LEGARDA

At the outset, Senator Legarda expressed support for the measure which was one of the first bills that she filed in Congress. She then asked on the difference between the original measure and the Committee Report where 30% amusement tax is supposed to be exempted from the locally produced films. Senator Aquino replied that considering a revenue stream of P700 million from the industry,

the League of Provinces, headed by Gov. Leo Ocampos of Misamis Occidental, has requested not to curtail the revenue stream completely.

Asked on the justification for the 10% tax imposition on both locally produced and foreign films. Senator Aquino explained that segregation of local and foreign film producers could make Congress guilty of invoking class legislation, particularly since pertinent constitutional provisions say that those in a similar situation should be treated in a similar fashion. Moreover, he said that under the WTO agreement, foreigners cannot be treated differently from local persuasion.

Senator Legarda noted that the initial measure only covered local films to stress the importance of providing support to the local film industry. She reiterated her support for the measure.

### INTERPELLATION OF SENATOR ENRILE

Asked by Senator Enrile if television and cable TV and some of the other outlets are covered by amusement tax, Senator Aquino replied that the measure specifically mentions theater tickets, thus, only cinemas are covered by amusement tax.

Replying to further queries, Senator Aquino said that the total yearly gross of the movie industry, both from foreign and local films, is P4 billion, 32% of which goes to taxes. He said that there are also the usual corporate income taxes, VAT, MTRCB fees, and cultural tax.

Asked what proportion of the 32% of P4 billion would represent burden to local and foreign producers, Senator Aquino replied that film producers get a very nominal or even negligible fee for the use of their films if they sell them in DVD or VCD copies. He said that the principal revenue that they are able to secure comes from exhibition in theaters where there is a 30% tax imposition on the total gross of proceeds for all of their films. Further, he said that after deducting the splits between the theater owners and the film producers, the latter would have to make about P45 million in ticket sales to recoup investment of about P15 million.

Stating his support for the bill, Senator Enrile, however, explained that if the Senate passed it, there can be no discrimination against foreign-produced films because of the equal treatment provision in

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the WTO-GATT (General Agreement on Tariffs and Trade).

Asked who would benefit from the measure – the local producers or the foreign film makers, Senator Aquino replied that the film industry covers not only the producers, actors and the technicians but also Filipino theater owners.

To the argument that reducing the amusement tax from 30% to 10% would encourage the entry of more foreign films to the detriment of the local film producers, Senator Aquino agreed; however, he explained that rather than do nothing to alleviate the *plight of the industry*, the Committee decided to assist the industry by lessening the tax burden which other sectors in the corporate world do not share.

But Senator Enrile recalled that Congress had already given some incentives to locally produced films that meet certain criteria. Senator Aquino admitted that the film industry is already enjoying the incentives.

Senator Enrile said that he wanted to make it of record that passing the law would benefit both local and foreign producers and there should be no misgivings about it once it is enacted into law.

#### **INTERPELLATION OF SENATOR PIMENTEL**

Asked by Senator Pimentel if the local government units (LGUs), particularly the League of Cities and the League of Municipalities, were invited to the hearings to give their inputs on the bill, Senator Aquino replied in the affirmative, stating that with the exception of Governor Ocampos, all the provincial, municipal and city officials submitted their position papers which, in essence, recognized the present plight of the industry and, at the same time, requested that the revenue from amusement tax should not be completely eliminated. He said that the reduction of the amusement tax was a happy compromise for the stakeholders in the industry.

Senator Pimentel explained that under the Local Government Code, the LGUs are empowered to impose certain taxes but if the Senate intends to remove a part of that power, it stands to reason that the LGUs should be consulted. Nonetheless, he expressed surprise that the Committee had tried to consult with Governor Ocampos, chair of the League

of Governors of the Philippines, who has nothing to do with the imposition of taxes at the city or municipal level.

Senator Aquino pointed out that there is a provision in the Code which empowers the *Sangguniang Panlalawigan* to impose the maximum rate of 30% amusement tax, and so the Committee decided to retain the revenue source at a much lesser rate of 10%. He added that under the proposed Act, there would still be a range of the amusement tax that can be imposed by the LGUs but not to exceed 10%.

At this point, Senator Gordon informed the Body that in Quezon City, the exemption of local films from taxes is good only for three years. He agreed with Senator Pimentel that the amusement tax is really a municipal or city tax and the provincial governor/provincial board has nothing to do about it except to overrule additional taxes imposed by a municipality.

Senator Aquino informed the Body that the governing law with regard to the collection of amusement tax is subsection (a), Section 140 of the Local Government Code which says, "The province may levy an amusement tax to be collected from the proprietors, lessees, or operators of cinemas, concert halls, circuses, boxing stadia and other places of amusement at a rate of not more than thirty percent (30%) of the gross receipts from admission fees."

Asked if the 10% amusement tax would apply to all kinds of amusement, Senator Aquino replied that they are enumerated in the aforecited provision of the Code. However, he pointed out that there is also a provision in the Code which exempts activities such as art exhibits, music recitals, and the like.

Senator Pimentel stated that while he understands the desire of the industry to reduce the amusement tax, he could not help but agree with Senator Enrile that the incentives would primarily benefit foreign film producers. Senator Aquino disclosed that there is indeed a lopsided ratio in favor of foreign films being shown in local cinemas. Moreover, he pointed out that even foreign film producers are in the same predicament because for lack of local films to exhibit, they are forced to exhibit foreign films in local theaters at a loss. He added that at present, there are only 400 theaters in operation from a high of 900 at one time.

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Senator Pimentel lamented the present situation of the film industry, saying that it is one of the carriers of the development of a country's culture. He agreed that the Senate should support it but reducing the amusement tax, he believed, should not be the only alternative. He stated that the industry people should be more aggressive in telling the Senate, especially the members of the Committee, what other means are available to local film producers to get more benefits from the government. Senator Aquino pointed out that the Film Development Council provides incentives to locally produced films as long as they meet certain criteria.

As to the track record of the Council in providing the incentives, Senator Aquino stated that films that only managed to get the "B" rating were given a small proportion of the amusement tax.

Senator Pimentel said that Congress should amend the law by reducing the stringent rules to enable the local films to qualify for the grant of incentives. Senator Aquino welcomed the suggestion.

In closing, Senator Pimentel advised the sponsors of bills to be more careful because of possible conflict of interest. He suggested that it is not too late for the Sponsors of the instant bill to refrain from defending it on the floor and to inhibit themselves from voting on it.

#### **INTERPELLATION OF SENATOR GORDON**

Asked by Senator Gordon if the purpose of the bill is to support the local film industry, Senator Aquino replied that the bill intends to reinvigorate the industry by reducing the expenses of the local film producers and hopefully make their films profitable.

To the assertion that the film industry is one of the most taxed sectors in the country, Senator Aquino agreed, stating that it is subject to corporate income tax and other taxes, plus the 30% amusement tax.

Senator Gordon believed that the reduction of the amusement tax would not be the panacea to the ailing local film industry nor would it induce foreign producers to exhibit their films in the country. He stressed that the real or major problem confronting the industry is piracy.

Senator Aquino stated that he did not feel competent enough to answer questions on the issue

of piracy which the Committee did not delve into; however, the Committee did focus on amusement taxes from the start.

Senator Gordon disclosed that handycams are being slipped inside movie houses to record films to be released as pirated discs, underscoring that piracy is killing the movie industry. Senator Aquino stressed that there should be a bill on piracy to accompany the instant bill.

Asked if the League of Cities was consulted during the hearings, Senator Aquino replied in the affirmative, as he clarified that various leagues were invited but few came.

On the contention that local governments would protest the proposed reduction in amusement taxes, Senator Aquino explained that compared to other taxes being collected that go into the internal revenue allotment of the LGUs, the amusement tax is negligible. He gave assurance that the Committee has touched base with the concerned leagues to solicit their opinion, unfortunately, their attendance in the hearings was unsatisfactory. He pointed out that the LGUs should view the reduction in amusement tax not as a loss but as saving on future revenues.

Relative thereto, Senator Gordon argued that the amusement tax has been a source of corruption for theater owners, Filipino film producers and foreign films distributors owing to the double usage of tickets and it has led to the practice of "skipping of amusement taxes" whereby the LGUs do not get their share. He emphasized that the bill is a practical suggestion because lowering the amusement tax from 30% to 10% would dissuade cheating. Further, he proposed that the industry should come up with good scripts as well as incentives for artists to make better movies. Senator Aquino agreed as he expressed support for the proposal.

#### **MANIFESTATION OF SENATOR PANGILINAN**

Senator Pangilinan manifested that like Senators Revilla and Lapid, he would inhibit himself from voting on the bill.

#### **COAUTHORS**

Upon their request, Senators Gordon and Pimentel were made coauthors of Senate Bill No. 2325. *AG*

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**TERMINATION OF THE PERIOD  
OF INTERPELLATIONS**

There being no further interpellation, upon motion of Senator Escudero, 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 Escudero, there being no objection, the Body closed the period of amendments.

**SUSPENSION OF SESSION**

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

*It was 6:04 p.m.*

**RESUMPTION OF SESSION**

At 6:07 p.m., the session was resumed.

**MANIFESTATION OF SENATOR ESCUDERO**

Senator Escudero reiterated that Senators Pangilinan, Ejercito Estrada, Lapid and Revilla have withdrawn as authors of the bill and that their signatures to the committee report shall also be deemed withdrawn; and likewise their cosponsorship speeches as well as the interpellations thereon are stricken off the record to comply with the provisions on conflict of interest in the Constitution and the Code of Conduct and Ethical Standards for Public Officials and Employees.

The Chair noted Senator Escudero's manifestation.

**APPROVAL OF SENATE BILL NO. 2325  
ON SECOND READING**

Submitted to a vote, and with the majority voting in favor, Senate Bill No. 2325 was approved on Second Reading.

**SUSPENSION OF SESSION**

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

*It was 6:09 p.m.*

**RESUMPTION OF SESSION**

At 6:09 p.m., the session was resumed.

**SUSPENSION OF CONSIDERATION  
OF SENATE BILL NO. 2325**

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

**SUSPENSION OF SESSION**

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

*It was 6:10 p.m.*

**RESUMPTION OF SESSION**

At 6:39 p.m., the session was resumed.

**COMMITTEE REPORT NO. 45  
ON SENATE BILL NO. 2213  
(Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2213 (Committee Report No. 45), entitled

AN ACT DECLARING A NATIONAL POLICY FOR TOURISM AS AN 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.

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

**MANIFESTATION  
OF SENATOR PIMENTEL**

Senator Pimentel said that he was withdrawing his reservation to interpellate Senator Gordon after he was assured that his concern regarding the

authority of the local governments to run certain tourist spots has been preserved in the bill.

#### **TERMINATION OF THE PERIOD OF INTERPELLATIONS**

There being no further 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. 2213 ON SECOND READING**

Submitted to a vote, there being no objection, Senate Bill No. 2213 was approved on Second Reading.

#### **REMARKS OF SENATOR GORDON**

Senator Gordon informed the Body of his intention to include the proposed amendments of Senator Defensor Santiago into the conference committee along with the amendments from Senator Legarda which he earlier accepted.

For his part, Senator Pangilinan stated that Senator Defensor Santiago would also have the option to reconsider the termination of the period of amendments.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2213**

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

#### **SUSPENSION OF SESSION**

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

*It was 6:42 p.m.*

#### **RESUMPTION OF SESSION**

At 6:42 p.m., the session was resumed.

#### **COMMITTEE REPORT NO. 51 ON SENATE BILL NO. 2264 (Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2264 (Committee Report No. 51), entitled

AN ACT AMENDING THE COOPERATIVE CODE OF THE PHILIPPINES TO BE KNOWN AS THE "PHILIPPINE COOPERATIVE CODE OF 2008."

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

#### **TERMINATION OF THE PERIOD OF INTERPELLATIONS**

Upon motion of Senator Pangilinan, there being no objection, the Body closed the period of interpellations, subject to the qualification that Members who would like to introduce amendments may raise clarificatory questions during the period of individual amendments.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2264**

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

#### **COMMITTEE REPORT NO. 39 ON SENATE BILL NO. 2077 (Continuation)**

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2077 (Committee Report No. 39), entitled

AN ACT ESTABLISHING THE PRE-NEED CODE OF 2008.

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

*MS*

The Chair recognized Senator Angara, sponsor of the measure.

### ROXAS AMENDMENTS

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

1. On page 12, line 22, after the word "Commission," insert the phrase AND SHALL BE DISCLOSED IN THE CONTRACT AND ALL SELLING MATERIALS;
2. On the same page, line 20, delete the phrase "computed at the end of each anniversary year and";
3. On page 15, line 15, second row of the table, under the heading "Other Plans" on the third column, replace the figure "10%" with 30%; and subsequently change the figure "80%" on the third row with 70%; the figure "80%" on the fourth row with 75%, and the figure "80%" on the fifth row with 75%;

### SUSPENSION OF SESSION

Upon motion of Senator Roxas, the session was suspended.

*It was 6:46 p.m.*

### RESUMPTION OF SESSION

At 6:47 p.m., the session was resumed.

4. On page 17, line 28, after the word "fund," insert the phrase INSTRUMENT ISSUED AND BACKED UP BY THE ASSETS OF A DULY AUTHORIZED BANK;
5. On page 19, line 15, insert the following provision: DIRECT LOANS TO PLANHOLDERS ARE EXEMPT FROM THE LIMITATION SET FORTH UNDER THE SECTION; *PROVIDED*, THAT SUCH LOANS TO PLANHOLDERS SHALL NOT EXCEED FIVE PERCENT (5%) OF THE TOTAL TRUST FUND AMOUNT;
6. On the same page, line 24, insert the following provision: INVESTMENTS IN DULY REGISTERED COLLECTIVE INVESTMENT INSTRUMENTS SUCH AS MUTUAL FUNDS ARE ALLOWED HEREUNDER; *PROVIDED*, THAT SUCH FUNDS ARE

INVESTED ONLY IN FIXED INCOME INSTRUMENTS AND BLUE-CHIP SECURITIES, SUBJECT TO THE LIMITATIONS PRESCRIBED BY LAW, RULES AND REGULATIONS;

7. On the same page, delete lines 16 to 19;
8. On page 20, line 3, replace the words and figure "twenty-five percent (25%)" with THIRTY PERCENT (30%);
9. On page 21, line 10, replace "twenty-five percent (25%)" with TWENTY PERCENT (20%);
10. On the same page, line 19, between the words "no" and "investments," insert the word DEPOSIT;
11. On the same page, line 20, replace the words and figure "twenty-five percent (25%)" with FIFTEEN PERCENT (15%);
12. On the same page, line 21, replace the period (.) with a semicolon (;), and insert the following proviso: *PROVIDED, FINALLY*, THAT THE COMMISSION IS AUTHORIZED TO ADJUST THE PERCENTAGE ALLOCATION PER CATEGORY SET FORTH HEREIN NOT IN EXCESS OF TWO PERCENTAGE POINTS UPWARD OR DOWNWARD AND NO OFTENER THAN ONCE EVERY FIVE (5) YEARS. THE FIRST ADJUSTMENT HEREUNDER MAY BE MADE NO EARLIER THAN FIVE (5) YEARS FROM THE EFFECTIVITY OF THIS ACT.

### 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. 2077 ON SECOND READING

Submitted to a vote, there being no objection, Senate Bill No. 2077 was approved on Second Reading.

### SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2077

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



**COMMITTEE REPORT NO. 46  
ON SENATE BILL NO. 2230**  
(Continuation)

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2230 (Committee Report No. 46), entitled

AN ACT FURTHER AMENDING THE PROVISIONS OF PRESIDENTIAL DECREE NO. 1866, AS AMENDED, ENTITLED "CODIFYING THE LAWS ON ILLEGAL/UNLAWFUL POSSESSION, MANUFACTURE, DEALING IN, ACQUISITION OR DISPOSITION OF FIREARMS, AMMUNITION OR EXPLOSIVES OR INSTRUMENTS USED IN THE MANUFACTURE OF FIREARMS, AMMUNITION OR EXPLOSIVES, AND IMPOSING STIFFER PENALTIES FOR CERTAIN VIOLATIONS THEREOF, AND FOR OTHER PURPOSES."

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

He informed the Body that while Senators Lacson and Legarda have withdrawn their reservations for interpellation, Senator Lacson has made the qualification that he be allowed to raise clarificatory questions and introduce amendments during the period of individual amendments in case the issues he is concerned with would not be covered during the period of committee amendments.

**TERMINATION OF THE PERIOD  
OF INTERPELLATIONS**

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

**COMMITTEE AMENDMENTS**

At the outset, Senator Honasan informed the Body that he would furnish all Members with copies of the amendments for their reference and for possible individual amendments, hence, he would not be introducing the amendments line by line.

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

1. Section 1. Section 3 of Presidential Decree No.1866, as amended by Republic Act No. 8294, is hereby further amended to read as follows:

SEC. 3. UNLAWFUL MANUFACTURE, SALES, ACQUISITION, DISPOSITION, IMPORTATION OR POSSESSION OF EXPLOSIVES OR INSTRUMENTS USED OR INTENDED TO BE USED THEREFOR. – THE PENALTY OF RECLUSION PERPETUA SHALL BE IMPOSED UPON ANY PERSON WHO SHALL WILLFULLY AND UNLAWFULLY MANUFACTURE, ASSEMBLE, DEAL IN, ACQUIRE, DISPOSE, IMPORT OR POSSESS ANY EXPLOSIVE OR INCENDIARY DEVICE, WITH KNOWLEDGE OF ITS EXPLOSIVE OR INCENDIARY CHARACTER, WHERE THE EXPLOSIVE OR INCENDIARY DEVICE IS CAPABLE OF PRODUCING DESTRUCTIVE EFFECT ON CONTIGUOUS OBJECTS OR CAUSING INJURY OR DEATH TO ANY PERSON, INCLUDING HAND GRENADE(S), RIFLE GRENADE(S) AND OTHER EXPLOSIVE(S), INCLUDING BUT NOT LIMITED TO "PILL BOX BOMB," "MOLOTOV COCKTAIL BOMB," "FIREBOMB," AND OTHER EXPLOSIVE INCENDIARY DEVICES.

PROVIDED, THAT, MERE POSSESSION OF ANY EXPLOSIVE OR INCENDIARY DEVICE SHALL BE *PRIMA FACIE* EVIDENCE THAT THE PERSON HAD THE KNOWLEDGE OF THE EXPLOSIVE OR INCENDIARY CHARACTER OF THE DEVICE.

PROVIDED, FURTHER, THAT A TEMPORARY, INCIDENTAL, CASUAL, HARMLESS, OR TRANSIENT POSSESSION OR CONTROL OF ANY EXPLOSIVE OR INCENDIARY DEVICE, WITHOUT THE KNOWLEDGE OF ITS EXPLOSIVE OR INCENDIARY CHARACTER, SHALL NOT BE A VIOLATION OF THIS SECTION.

PROVIDED, FINALLY, THAT THE TEMPORARY, INCIDENTAL, CASUAL, HARMLESS, OR TRANSIENT POSSESSION OR CONTROL OF ANY EXPLOSIVE OR INCENDIARY DEVICE FOR THE SOLE PURPOSE OF SURRENDERING IT TO THE PROPER AUTHORITIES SHALL NOT BE A VIOLATION OF THIS SECTION.

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2. Section 2. Section 4 of Presidential Decree No. 1866, as amended, is hereby further amended to read, as follows:

SEC. 4. *UNLAWFUL MANUFACTURE, SALES, ACQUISITION, DISPOSITION, IMPORTATION OR POSSESSION OF INSTRUMENTS USED OR INTENDED TO BE USED FOR THE MANUFACTURE, CONSTRUCTION, ASSEMBLY, DELIVERY OR DETONATION.* — THE PENALTY OF *RECLUSIO PERPETUA* SHALL BE IMPOSED UPON ANY PERSON WHO SHALL WILLFULLY AND UNLAWFULLY MANUFACTURE, ASSEMBLE, DEAL IN, ACQUIRE, DISPOSE, IMPORT OR POSSESS ANY PART, MACHINERY, TOOL OR INSTRUMENT OF ANY EXPLOSIVE OR INCENDIARY DEVICE, WHETHER CHEMICAL, MECHANICAL, ELECTRONIC, ELECTRICAL OR OTHERWISE, USED OR INTENDED TO BE USED FOR ITS MANUFACTURE, CONSTRUCTION, ASSEMBLY, DELIVERY OR DETONATION, WHERE THE EXPLOSIVE OR INCENDIARY DEVICE IS CAPABLE OR IS INTENDED TO BE MADE CAPABLE OF PRODUCING DESTRUCTIVE EFFECT ON CONTIGUOUS OBJECTS OR CAUSING INJURY OR DEATH TO ANY PERSON.

*PROVIDED, THAT,* THE MERE POSSESSION OF ANY PART, MACHINERY, TOOL OR INSTRUMENT DIRECTLY USED IN THE MANUFACTURE, CONSTRUCTION, ASSEMBLY, DELIVERY OR DETONATION OF ANY EXPLOSIVE OR INCENDIARY DEVICE, BY ANY PERSON WHOSE BUSINESS, ACTIVITY, OR EMPLOYMENT DOES NOT LAWFULLY DEAL WITH THE POSSESSION OF SUCH ARTICLE SHALL BE *PRIMA FACIE* EVIDENCE THAT SUCH ARTICLE IS INTENDED TO BE USED BY THAT PERSON IN THE UNLAWFUL/ILLEGAL MANUFACTURE, CONSTRUCTION, ASSEMBLY, DELIVERY OR DETONATION OF AN EXPLOSIVE OR INCENDIARY DEVICE.

*PROVIDED, FURTHER,* THAT A TEMPORARY, INCIDENTAL, CASUAL, HARMLESS OR TRANSIENT POSSESSION OR CONTROL OF ANY PART, MACHINERY, TOOL OR INSTRUMENT DIRECTLY USED IN THE MANUFACTURE, CONSTRUCTION, ASSEMBLY, DELIVERY OR DETONATION OF ANY EXPLOSIVE OR INCENDIARY DEVICE, WITHOUT THE KNOWLEDGE OF ITS CHARACTER AS A PART, MACHINERY, TOOL OR INSTRUMENT DIRECTLY

USED IN THE MANUFACTURE, CONSTRUCTION, ASSEMBLY, DELIVERY OR DETONATION OF ANY EXPLOSIVE OR INCENDIARY DEVICE SHALL NOT BE A VIOLATION OF THIS SECTION.

3. Section 3. Insert a new Section 5, 6, 7, 8, 9, 10, 11 and 12 in PD 1866 to read as follows:

SEC. 5. *PENALTY FOR THE OWNER, PRESIDENT, MANAGER, DIRECTOR OR OTHER RESPONSIBLE OFFICER OF ANY PUBLIC AND PRIVATE FIRM, COMPANY, CORPORATION OR ENTITY.* — THE PENALTY OF *RECLUSIO PERPETUA* SHALL BE IMPOSED UPON THE OWNER, PRESIDENT, MANAGER, DIRECTOR OR OTHER RESPONSIBLE OFFICER OF ANY PRIVATE OR PUBLIC FIRM, COMPANY, CORPORATION OR ANY ENTITY, WHICH SHALL WILLFULLY OR KNOWINGLY ALLOW ANY EXPLOSIVE OR INCENDIARY DEVICE OR PARTS THEREOF OWNED OR CONTROLLED BY SUCH FIRM, COMPANY, CORPORATION OR ENTITY TO BE USED BY ANY PERSON OR PERSONS FOUND GUILTY OF VIOLATING THE PROVISIONS OF THE PRECEDING PARAGRAPHS.

4. SEC. 6. *CRIMES COMPLEXED WITH VIOLATION OF THIS DECREE.* — WHEN A VIOLATION OF SECTIONS 3, 4 OR 5 OF THIS DECREE IS A NECESSARY MEANS FOR COMMITTING ANY OF THE CRIMES DEFINED IN THE REVISED PENAL CODE OR SPECIAL LAWS, WHICH RESULTS IN THE DEATH OF ANY PERSON OR PERSONS, THE PENALTY OF *RECLUSIO PERPETUA* SHALL BE IMPOSED.
5. SEC. 7. *FORMER CONVICTION OR ACQUITTAL; DOUBLE JEOPARDY.* — SUBJECT TO THE PROVISIONS OF THE RULES OF COURT, THE CONVICTION OR ACQUITTAL OF THE ACCUSED OR THE DISMISSAL OF THE CASE SHALL BE A BAR TO ANOTHER PROSECUTION FOR ANY OFFENSE WHICH IS NECESSARILY INCLUDED IN THE OFFENSE CHARGED IN THE FORMER COMPLAINT OR INFORMATION.
6. SEC. 8. *RESPONSIBILITY AND LIABILITY OF LAW ENFORCEMENT AGENCIES AND OTHER GOVERNMENT OFFICIALS AND EMPLOYEES IN TESTIFYING AS PROSECUTION WITNESSES.* — ANY MEMBER OF LAW ENFORCEMENT AGENCIES OR ANY OTHER GOVERNMENT

OFFICIAL AND EMPLOYEE WHO, AFTER DUE NOTICE, FAILS OR REFUSES INTENTIONALLY OR NEGLIGENTLY, TO APPEAR AS A WITNESS FOR THE PROSECUTION OR THE DEFENSE IN ANY PROCEEDINGS, INVOLVING VIOLATIONS OF THIS DECREE, WITHOUT ANY VALID REASON, SHALL BE PUNISHED WITH IMPRISONMENT OF NOT LESS THAN TWELVE (12) YEARS AND ONE (1) DAY TO TWENTY (20) YEARS AND A FINE OF NOT LESS THAN FIVE HUNDRED THOUSAND PESOS (P500,000.00), IN ADDITION TO THE ADMINISTRATIVE LIABILITY HE/SHE MAY BE METED OUT BY HIS/HER IMMEDIATE SUPERIOR AND/OR APPROPRIATE BODY.

THE IMMEDIATE SUPERIOR OF THE MEMBER OF THE LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERNMENT EMPLOYEE MENTIONED IN THE PRECEDING PARAGRAPH SHALL BE PENALIZED WITH IMPRISONMENT OF NOT LESS THAN TWO (2) MONTHS AND ONE (1) DAY BUT NOT MORE THAN SIX (6) YEARS AND A FINE OF NOT LESS THAN TEN THOUSAND PESOS (P10,000.00) BUT NOT MORE THAN FIFTY THOUSAND PESOS (P50,000.00) AND IN ADDITION, PERPETUAL ABSOLUTE DISQUALIFICATION FROM PUBLIC OFFICE IF DESPITE DUE NOTICE TO THEM AND TO THE WITNESS CONCERNED, THE FORMER DOES NOT EXERT REASONABLE EFFORT TO PRESENT THE LATTER TO THE COURT.

THE MEMBER OF THE LAW ENFORCEMENT AGENCY OR ANY OTHER GOVERNMENT EMPLOYEE MENTIONED IN THE PRECEDING PARAGRAPHS SHALL BE NOT TRANSFERRED OR RE-ASSIGNED TO ANY OTHER GOVERNMENT OFFICE LOCATED IN ANOTHER TERRITORIAL JURISDICTION DURING THE PENDENCY OF THE CASE IN COURT. HOWEVER, THE CONCERNED MEMBER OF THE LAW ENFORCEMENT AGENCY OR GOVERNMENT EMPLOYEE MAY BE TRANSFERRED OR RE-ASSIGNED FOR COMPELLING REASONS: *PROVIDED*, THAT HIS/HER IMMEDIATE SUPERIOR SHALL NOTIFY THE COURT WHERE THE CASE IS PENDING OF THE ORDER TO TRANSFER OR RE-ASSIGN, WITHIN TWENTY-FOUR (24) HOURS FROM ITS APPROVAL; *PROVIDED, FURTHER*, THAT HIS/HER IMMEDIATE SUPERIOR SHALL BE PENALIZED WITH IMPRISONMENT OF

NOT LESS THAN TWO (2) MONTHS AND ONE (1) DAY BUT NOT MORE THAN SIX (6) YEARS AND A FINE OF NOT LESS THAN TEN THOUSAND PESOS (P10,000.00) BUT NOT MORE THAN FIFTY THOUSAND PESOS (P50,000.00) AND IN ADDITION, PERPETUAL ABSOLUTE DISQUALIFICATION FROM PUBLIC OFFICE, SHOULD HE/SHE FAIL TO NOTIFY THE COURT OF SUCH ORDER TO TRANSFER OR RE-ASSIGN.

PROSECUTION AND PUNISHMENT UNDER THIS SECTION SHALL BE WITHOUT PREJUDICE TO ANY LIABILITY FOR VIOLATION OF ANY EXISTING LAW.

7. SEC. 9. *CRIMINAL LIABILITY FOR PLANTING OF EVIDENCE.* – ANY PERSON WHO IS FOUND GUILTY OF “PLANTING” ANY EXPLOSIVE OR INCENDIARY DEVICE OR ANY PART, MACHINERY, TOOL OR INSTRUMENT OF ANY EXPLOSIVE OR INCENDIARY DEVICE, WHETHER CHEMICAL, MECHANICAL, ELECTRONIC, ELECTRICAL OR OTHERWISE, SHALL SUFFER THE PENALTY OF *RECLUSION PERPETUA*.

PLANTING OF EVIDENCE SHALL MEAN THE WILLFUL ACT BY ANY PERSON OF MALICIOUSLY AND SURREPTITIOUSLY INSERTING, PLACING, ADDING OR ATTACHING DIRECTLY OR INDIRECTLY, THROUGH ANY OVERT OR COVERT ACT, WHATEVER QUANTITY OF ANY EXPLOSIVE OR INCENDIARY DEVICE OR ANY PART, MACHINERY, TOOL OR INSTRUMENT OF ANY EXPLOSIVE OR INCENDIARY DEVICE, WHETHER CHEMICAL, MECHANICAL, ELECTRONIC, ELECTRICAL OR OTHERWISE IN THE PERSON, HOUSE, EFFECTS, OR IN THE IMMEDIATE VICINITY OF AN INNOCENT INDIVIDUAL FOR THE PURPOSE OF IMPLICATING, INCRIMINATING OR IMPUTING THE COMMISSION OF ANY VIOLATION OF THIS DECREE.

## INQUIRY OF SENATOR AQUINO

Senator Aquino asked on the status of Sections 5, 6, 7 and 8 of P.D. No. 1866, as amended, since there was no amendment to renumber them. Senator Honasan replied that they are still retained and that he would propose to renumber them when he comes to the end of the committee amendments. *AS* *MS*

8. SEC. 10. *AUTHORITY TO IMPORT, SELL OR POSSESS CHEMICALS OR ACCESSORIES FOR EXPLOSIVES.* – ONLY PERSONS OR ENTITIES ISSUED A MANUFACTURER’S LICENSE, DEALER’S LICENSE OR PURCHASER’S LICENSE BY THE PHILIPPINE NATIONAL POLICE (PNP) – FIREARMS AND EXPLOSIVES DIVISION MAY IMPORT ANY OF THE CHEMICALS OR ACCESSORIES THAT CAN BE USED IN THE MANUFACTURE OF EXPLOSIVES OR EXPLOSIVE INGREDIENTS FROM FOREIGN SUPPLIERS, OR POSSESS OR SELL THEM TO LICENSED DEALERS OR END USERS, AS THE CASE MAY BE.
9. SEC. 11. – *TYPES OF CHEMICALS/ACCESSORIES COVERED.* – THE CHEMICALS AND ACCESSORIES MENTIONED IN THE PRECEDING SECTION SHALL EXCLUSIVELY REFER TO CHLORATES, NITRATES, NITRIC ACID AND SUCH OTHER CHEMICALS AND ACCESSORIES THAT CAN BE USED FOR THE MANUFACTURE OF EXPLOSIVES AND EXPLOSIVE INGREDIENTS.
10. SEC. 12. *RECORD OF TRANSACTIONS.* – ANY PERSON OR ENTITY WHO INTENDS TO IMPORT, SELL OR POSSESS THE AFORECAITED CHEMICALS OR ACCESSORIES SHALL FILE AN APPLICATION WITH THE CHIEF OF THE PHILIPPINE NATIONAL POLICE (PNP), STATING THEREIN THE PURPOSE FOR WHICH THE LICENSE AND/OR PERMIT IS SOUGHT AND SUCH OTHER INFORMATION AS MAY BE REQUIRED BY THE SAID OFFICIAL. THE CONCERNED PERSON OR ENTITY SHALL MAINTAIN A PERMANENT RECORD OF ALL TRANSACTIONS ENTERED INTO IN RELATION WITH THE ONE AFORECAITED CHEMICALS OR ACCESSORIES, WHICH DOCUMENTS SHALL BE OPEN TO INSPECTION BY THE APPROPRIATE AUTHORITIES.
11. SEC. 13 *CANCELLATION OF LICENSE.* – FAILURE TO COMPLY WITH THE PROVISION OF SECTION 10, 11 AND 12 SHALL BE SUFFICIENT CAUSE FOR THE CANCELLATION OF ALL SUCH CHEMICALS OR ACCESSORIES, WHETHER OR NOT LAWFULLY IMPORTED, PURCHASED OR POSSESSED BY THE SUBJECT PERSON OR ENTITY.
12. Renumber the succeeding sections accordingly.

**REMARKS  
OF SENATOR PANGILINAN**

Senator Pangilinan informed the Body that Senator Honasan shall furnish the Members with a clean copy of the bill incorporating the committee amendments to help them prepare for the individual amendments on Tuesday, June 10, 2008.

**TERMINATION OF THE PERIOD  
OF COMMITTEE AMENDMENTS**

Upon motion of Senator Pangilinan, there being no objection, the Body closed the period of committee amendments.

**SUSPENSION OF CONSIDERATION  
OF SENATE BILL NO. 2230**

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

**RECONSIDERATION OF THE APPROVAL  
ON SECOND READING  
OF SENATE BILL NO. 2007**

To correct a grammatical error, Senator Angara requested Senator Pangilinan for a reconsideration of the bill.

Upon motion of Senator Pangilinan, there being no objection, the Body reconsidered its approval, of Second Reading, of Senate Bill No. 2077, entitled

**AN ACT ESTABLISHING THE PRE-  
NEED CODE OF 2008.**

With the reconsideration, Senator Pangilinan stated that the parliamentary status was the period of amendments.

Thereupon, the Chair recognized Senator Angara, Sponsor of the measure for his amendment.

**ANGARA AMENDMENT**

On page 32, line 14, as proposed by Senator Angara, there being no objection, change the words “Insurance Commission” to SECURITIES AND EXCHANGE COMMISSION. *AS*

*PS*

### **TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS**

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

### **APPROVAL OF SENATE BILL NO. 2077 ON SECOND READING**

Submitted to a vote, there being no objection, Senate Bill No. 2077 was approved on Second Reading.

### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2077**

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

### **COMMITTEE REPORT NO. 43 ON SENATE BILL NO. 2150**

*(Continuation)*

Upon motion of Senator Pangilinan, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2150, entitled

#### **AN ACT GRANTING THE RIGHT OF REPLY AND PROVIDING PENAL- TIES FOR VIOLATION THEREOF.**

Senator Pangilinan stated that the parliamentary status was the period of interpellations; however, he informed the Body that Senator Ejercito Estrada has withdrawn his reservation to interpellate the Sponsor.

### **TERMINATION OF THE PERIOD OF INTERPELLATIONS**

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

### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 7:16 p.m.*

### **RESUMPTION OF SESSION**

At 7:17 p.m., the session was resumed.

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

Upon motion of Senator Pangilinan, there being no objection, the Body closed the period of committee amendments.

### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2150**

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

### **MANIFESTATION OF SENATOR MADRIGAL**

Senator Madrigal expressed gratitude to the Members who supported the Anti-Child Pornography bill, namely: Senators Roxas, Lacson, Pimentel, Zubiri, Angara, Honasan, Senate President Villar, Senators Pangilinan and Aquino. She stated that she was ready for interpellation and hopefully, it could again be scheduled on Tuesday, June 10, 2008. She announced that Executive Director Versoza of the NCRFW has expressed support for the bill.

Senator Madrigal stated that for three years, the Committee worked with the United Nations branch in Bangkok and Geneva on the bill and it also received inputs from multisectoral heads. She appealed to Senator Cayetano (P) to help in the passage of the bill.

Senator Madrigal said that when she became senator, the American Homeland Security lobbied for the passage of the bill because, apparently, the Philippines has become the second largest pornographic producer in the world. She pointed out that the \$60-billion industry involves not only teenagers but children as young as four or five years old.

Senator Madrigal expressed her apology to Senator Cayetano (P) and asked her to put their personal differences aside for the sake of the Filipino children who are being used daily by pornographers, particularly in films and video discs which are very cheap to produce in the Philippines and are being distributed to Europe and America. She sought the

*ms*

assistance of Senate President Villar in convincing Senator Cayetano (P) of the importance of the bill, which took three years to finish. She expressed hope that all the Members would be part of the authorship of the bill.

#### REMARKS OF SENATOR PANGILINAN

Senator Pangilinan assured Senator Madrigal that Senate Bill No. 2317 (anti-child pornography bill) would be calendared for deliberation on Tuesday, June 10. Likewise, he said that Senator Cayetano (P) has expressed willingness to interpellate on the measure because she believes in its goals and objectives.

#### REMARKS OF SENATOR CAYETANO (P)

Senator Cayetano (P) clarified that her intention to interpellate Senator Madrigal is not a way of blocking the measure, saying that, in fact, she is one of the strong supporters of the anti-child pornography bill. She said that she was even surprised why some of the Members had asked her not to proceed with her interpellation.

She stated that she needed a few days to review the bill, which was sponsored on the floor only three days ago, and make a recollection of all the concerns aired to her by various groups. She added that her staff has also been busy finalizing the bills she would like to file. She said that she has told some of the Members that she would not proceed with her interpellation if the concerns of the NGOs are not relevant enough to even be taken up on the floor.

#### REMARKS OF SENATOR MADRIGAL

Senator Madrigal denied ever saying that Senator Cayetano (P) was blocking the measure and that her manifestation was for the purpose of expressing her readiness to be interpellated. She expressed her apology to Senator Cayetano (P) for all the grief she had caused her in the past and implored her and the rest of the Members to help in the passage of the bill. Likewise, she expressed willingness to give Senator Cayetano (P) the sponsorship of the measure as an act of humility.

#### SUSPENSION OF SESSION

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

*It was 7:27 p.m.*

#### RESUMPTION OF SESSION

At 7:31 p.m., the session was resumed.

#### REMARKS OF SENATOR CAYETANO (P)

Senator Cayetano (P) said that she was certain nobody would want to delay the passage of the anti-child pornography bill, and she assured the Body that she would meet with the NGOs during the weekend to discuss their concerns and gather the necessary information. She said that Executive Director Emmeline Versoza of the National Commission on the Role of Filipino Women (NCRFW) has expressed support for the bill even if she has not read it and the NCRFW has not been invited to the hearings on the bill. She believed that all the women NGOs would be supportive of the bill.

In closing, Senator Cayetano (P) said that there is no need for any Member to beg for her support for the passage of the bill because Senator Madrigal already has it.

#### REMARKS OF SENATOR MADRIGAL

Senator Madrigal expressed hope that she and Senator Cayetano (P) would work more fruitfully in the future, saying that it was never too late to mend ways as she again apologized and offered her hand in peace to Senator Cayetano (P).

#### SUSPENSION OF SESSION

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

*It was 7:34 p.m.*

#### RESUMPTION OF SESSION

At 7:34 p.m., the session was resumed with Senate President Pro Tempore Ejercito Estrada, presiding.

#### SECOND ADDITIONAL REFERENCE OF BUSINESS

The Deputy Secretary for Legislation, Atty. Edwin B. Bellen, read the following matters and the Chair made the corresponding referrals: *He*

*ms*

**BILLS ON FIRST READING**

Senate Bill No. 2374, entitled

AN ACT STRENGTHENING THE CONSTRUCTION INDUSTRY, CREATING THE PHILIPPINE CONSTRUCTION INDUSTRY DEVELOPMENT AUTHORITY AND FOR OTHER PURPOSES

Introduced by Senator Loren Legarda

**To the Committees on Trade and Commerce; Economic Affairs; and Finance**

Senate Bill No. 2375, entitled

THE INVESTMENTS AND INCENTIVES CODE OF THE PHILIPPINES

Introduced by Senator Loren Legarda

**To the Committees on Economic Affairs; Trade and Commerce; and Ways and Means**

Senate Bill No. 2376, entitled

AN ACT GRANTING SOUTHEAST ASIAN AIRLINES (SEAir), INC. A FRANCHISE TO ESTABLISH, OPERATE AND MAINTAIN DOMESTIC AND INTERNATIONAL AIR TRANSPORT SERVICES, WITH CLARKFIELD, PAMPANGA AS ITS BASE

Introduced by Senator Juan Miguel F. Zubiri

**To the Committee on Public Services**

**RESOLUTIONS**

Proposed Senate Resolution No. 434, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON BANKS, FINANCIAL INSTITUTIONS AND CURRENCIES TO LOOK INTO, IN AID OF LEGISLATION, THE PHILIPPINE VETERANS BANK'S SUPPOSED ACQUISITION OF BANKWISE, INC., A THRIFT BANK, WITH THE END

IN VIEW OF REVISITING OR AMENDING THE GENERAL BANKING LAW OF 2000 AND OTHER RELATED LAWS, RULES AND REGULATIONS, SPECIFICALLY ON BANK ACQUISITIONS AND MERGERS

Introduced by Senator Francis "Chiz" G. Escudero

**To the Committee on Banks, Financial Institutions and Currencies**

Proposed Senate Resolution No. 435, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED ILLEFFECTS OF GLUTATHIONE-BASED PRODUCTS

Introduced by Senator Miriam Defensor Santiago

**To the Committee on Health and Demography**

Proposed Senate Resolution No. 436, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ECONOMIC AFFAIRS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ADVERSE IMPACT OF RISING OIL PRICES TO THE ECONOMY, PRICE OF BASIC COMMODITIES AND THE PURCHASING POWER OF THE FILIPINOS, WITH THE END IN VIEW OF DETERMINING REMEDIAL MEASURES TO ADDRESS THE SAME

Introduced by Senator Loren Legarda

**To the Committees on Trade and Commerce; and Energy**

Proposed Senate Resolution No. 437, entitled

RESOLUTION URGING THE APPROPRIATE SENATE COMMITTEES

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TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE EFFECTS OF SKYROCKETING PRICE OF OIL WITH THE END IN VIEW OF DETERMINING COST-CUTTING MEASURES TO CUSHION ITS IMPACT ON GOVERNMENT EXPENDITURES

Introduced by Senator Loren Legarda

**To the Committees on Trade and Commerce; and Energy**

### COMMITTEE REPORTS

Committee Report No. 69, prepared and submitted jointly by the Committees on Health and Demography; and Trade and Commerce, on Senate Bill No. 2377, with Senators Pimentel Jr. and Compañera Pia S. Cayetano as authors thereof, entitled

AN ACT TO EFFECTIVELY INSTILL HEALTH CONSCIOUSNESS THROUGH PICTURE-BASED HEALTH WARNINGS ON TOBACCO PRODUCTS,

recommending its approval in substitution of Senate Bill No. 2147.

Sponsor: Senator Compañera Pia S. Cayetano

**To the Calendar for Ordinary Business**

Committee Report No. 70, prepared and submitted jointly by the Committees on Health and Demography; Trade and Commerce; and Youth, Women and Family Relations, on Senate Bill No. 2378, with Senators Miriam Defensor Santiago, Compañera Pia S. Cayetano and Manny Villar as authors thereof, entitled

AN ACT AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9211, OTHERWISE KNOWN AS AN ACT REGULATING THE PACKAGING, USE, SALE, DISTRIBUTION AND ADVERTISEMENTS OF TOBACCO PRODUCTS AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill Nos. 1048, 1202, 1368, 1669, 1869 and Proposed Senate Resolution No. 92.

Sponsor: Senator Compañera Pia S. Cayetano

**To the Calendar for Ordinary Business**

### SUSPENSION OF SESSION

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

*It was 7:38 p.m.*

### RESUMPTION OF SESSION

At 7:38 p.m., the session was resumed.

### SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 69 on Senate Bill No. 2377 from the Calendar for Ordinary Business to the Calendar for Special Orders.

### COMMITTEE REPORT NO. 69 ON SENATE BILL NO. 2377

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2377 (Committee Report No. 69), entitled

AN ACT TO EFFECTIVELY INSTILL HEALTH CONSCIOUSNESS THROUGH PICTURE-BASED HEALTH WARNINGS ON TOBACCO PRODUCTS.

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.

Senator Pangilinan manifested that according to Senator Cayetano (P), her sponsorship speech on Senate Bill No. 2377 shall be adopted as her sponsorship speech on Senate Bill No. 2378.

The Chair recognized Senator Cayetano (P) for the sponsorship. *PC*



## SPONSORSHIP SPEECH OF SENATOR CAYETANO (P)

In sponsoring Senate Bill No. 2377, Senator Cayetano (P) delivered the following speech:

### REGULATING TOBACCO SMOKING

*June is "National No-Smoking Month." May 31 is "World No-Smoking Day." These celebrations are indeed significant considering that the prevalence of smoking undeniably threatens human health and human life.*

For every cigarette stick smoked, a smoker loses at least five minutes of his precious life and also endangers the lives of innocent people around him whose only fault is that they did not forget to breathe.

As statistics shows, this roughly translates to an annual death rate of five million people worldwide. With current smoking patterns, about 500 million people alive today will eventually be killed by tobacco use.

With smoking comes a web of health problems and complications ranging from acute to chronic cases. Among these are chronic cough, lung diseases, shortness of breath, heart diseases, increased heart rate and blood pressure, a long list of gastro-intestinal problems, ulcer-like stomach pains, peptic ulcer diseases, nausea and diarrhea, tremors, delayed wound healing, oral cavity problems, various kinds of cancer, and sweating with the smell of nicotine.

For women, it can also cause infertility, early menopausal and pregnancy problems such as fetal abnormalities and even death of the fetus.

These are the prizes in exchange for the ephemeral positive effects of smoking often attributed to a certain state of euphoria and relaxation. Obviously, the benefit is not worth the possible costs.

Such adversity brought by smoking is not surprising. If only people knew what kind of substances constitute their "favorite meal." There are over 4,000 chemicals in cigarette smoke, 60 of which are carcinogens. The most notable ones are: nicotine, a poisonous alkaloid also used as an insecticide; ammonia, a chemical which increases the impact of nicotine in smokers, hence, inducing addiction; tar, the substance responsible for staining the smoker's teeth which can also cause lung diseases such as emphysema, chronic bronchitis, and lung cancer; carbon monoxide, a toxic gas which can

also be found in car smoke that can disrupt the amount of oxygen transported<sup>o</sup> in the body; cadmium, a highly toxic metal also used in car batteries which can damage the lungs, the liver, the kidney, and even the brain; lead, a poisonous chemical which can stunt growth and can cause brain damage; and arsenic, a well-known poisonous chemical.

Given the presence of these chemicals, there are clear health risks to smokers and even more on the non-smokers who are exposed to it.

In children, passive smoking is known to cause fetal growth impairment, asthma, bronchitis, pneumonia, middle-ear disease and other kinds of diseases. This has been proven in the 1996 U.S. Analysis of over 100 reports of Pediatric Diseases which says that children's exposure to tobacco smoke is responsible for up to 13% of asthma cases, 13% of ear infections, and 20% of all lung infections in children under 5. Sadly, second-hand smoke kills as much as, if not worse than, primary smoke.

What makes it even more alarming is that more non-smokers are affected as the detrimental effects of smoking extend to the environment. Tobacco smoke damages the environment, basically, through air pollution. It produces six times the pollution of a busy highway when in a crowded restaurant and in a crowded caucus.

Given these facts, we can say, without a doubt, that tobacco smoke is indeed, an active contributing factor to a threatening noxious environment.

### *Tobacco use in the Philippines*

The Philippines is so vulnerable to these hazards. Statistics say that 34.8% of our population is engaged in tobacco smoking.

Juan de la Cruz is indeed addicted to smoking, and this is true regardless of economic status. Eighty percent of Filipino households in the poorest quantile have at least one member who smokes. And sadly, their tobacco expenditure tops their monthly spending. In 2003, the poor spent more on tobacco than on clothing, education and health. Not only that, if they could only sacrifice a little bit of their budget for tobacco smoking and reallocate a little bit over 50% of that money that they spend on their monthly food budget, they could buy additional meat or fish; or an additional 22 eggs; or 53 pieces of bananas.

In 1994, among 25 leading countries, we ranked 15<sup>th</sup> on apparent tobacco consumption, consuming some 85.36 billion cigarettes. *AP*

With all these figures and numbers, the result will surely be a "deadly" one. In fact, it indeed kills, five out of the top 10 death-causing diseases in our country can be attributed to tobacco smoking.

***The Tobacco Regulation Act of 2003  
and the Framework Convention  
on Tobacco Control (FCTC)***

Republic Act No. 9211 or "The Tobacco Regulation Act of 2003" provides for the following:

- ◆ The requirement that textual health warnings must cover 30% of the front panel of all products (Effective by July 1, 2006)
- ◆ Prohibition on airing tobacco advertisements on TV, cable TV, and radio (Effective by January 1, 2007)
- ◆ Prohibition on outdoor and cinema tobacco advertisements (Effective July 1, 2007)
- ◆ Ban on tobacco sponsorship in sports, concerts, cultural and art events, and prohibition of all forms of tobacco advertisements in all mass media (Effective July 1, 2008)

***Framework Convention  
on Tobacco Control (FCTC)***

In addition to the lack of teeth in the enforcement of RA 9211, a subsequent treaty, the Framework Convention on Tobacco Control (FCTC) requires further stricter legislation on tobacco regulation.

The FCTC is an international treaty initiated by the World Health Assembly. It is the first global public health agreement devoted entirely to tobacco control and was participated in by 192 countries to which the Philippines is a signatory. The Philippines acceded to the FCTC in 2005 obliging us to comply with certain standards, such as tobacco price and tax increases, tobacco advertising and sponsorship, illicit trade and second-hand smoke. More importantly, the FCTC recommends implementing effective measures on packaging and labeling of tobacco products, such as the adoption of a picture-based health warning on tobacco packages.

***The proposed measures***

Having said that, allow me to present the proposed measures. These measures are products of two hearings and two technical working groups conducted by your Committee on Health.

The first proposed measure requires a Picture-Based Health Warning on all tobacco products, while the second measure amends certain provisions of Republic Act No. 9211.

***Picture-Based Health Warning Bill***

Mandating a Picture-Based Health Warning will require all tobacco products to bear pictures illustrating the ill-effects of smoking. This is based on Article 11 of the FCTC.

While many tobacco users know that tobacco use is harmful, studies show that most are unaware of its true risks. As the saying goes, "a picture paints a thousand words." Studies have shown that picture-based health warnings are more effective than text warnings alone. In fact, a study revealed that such health warnings are "60 times more effective in terms of encouraging cessation and prevention than text only labels."

The use of pictures and graphics will also effectively convey the message to those with literacy problems.

Pictorial health warnings on tobacco products already exist in 15 countries, both developed and developing, all over the world. In fact, cigarette packages manufactured in the Philippines and sold in our neighboring countries such as Singapore and Thailand already include picture-based health warnings because these two countries require picture-based health warnings. On the other hand, cigarette packages manufactured in Singapore and sold in the Philippines carry only textual health warnings simply because picture-based health warnings are not required in the Philippines.

I have an actual sample of cigarette packaging. I will ask the legislative page to show it to everyone who would like to take a look at the pictograph warnings as used in other countries. It can be compared with the ones printed in the cigarettes packaged in the Philippines. Clearly, the impact is different.

The bill requires all cigarette packages and other tobacco product packages, found in the market, including cartons or master cases, to bear highly visible full-color "picture-based health warnings" that will have two components: a photographic picture warning and an accompanying textual warning that explains in simple terms what the picture is all about.

We will note that the pictures in the actual samples we have probably takes 50% of the surface. In our bill, we are recommending 60%. <sup>100</sup>

100

The bill will also prohibit the use of descriptors, including terms, trademarks, or any sign or feature that creates or is likely to create the false impression that a product or brand is less harmful. This includes descriptors such as mild, light and low tar when studies show that they are, in fact, not light, mild or low tar.

#### *Amendments to RA 9211*

During the hearings, technical working group meetings and consultations conducted by your Committee on Health, loopholes and gaps in RA 9211 which makes it an ineffective measure to reduce smoking prevalence and consumption in the country were discussed.

We all know that RA 9211 is basically a health law. However, under RA 9211, the lead agency of the Inter-Agency Committee on Tobacco (IAC-T) is the Department of Trade and Industry (DTI) with the Department of Health (DOH) only as the vice chair and this has given rise to the difficulty in the enforcement of the law. During the hearings, a lot of our resource persons complained that there were delays in the holding of meetings and in the implementation of resolutions passed by the Committee and they were very vocal about their view that it was because the DTI was the lead agency. Thus, the proposed measure seeks to mandate the Department of Health to take the lead in the implementation of the law. I would like to point out that during the hearings and the technical working groups meetings, the DTI placed on record that it will not object to such amendment.

The measure also removes the Philippine Tobacco Institute, the organization representing the tobacco companies, from its membership in the Inter-Agency Committee on Tobacco (IAC-T). The IAC-T is the agency that takes charge of regulating and monitoring the implementation of RA 9211. Why was the Philippine Tobacco Institute included in the first place? In a similar law, EO 51, on breastfeeding substitute, there is also an inter-agency committee which does not include milk companies. The milk companies, like any stakeholder, are invited to public hearings, but they need not be a member of the inter-agency committee. Therefore, this is the recommendation that we make and we believe that it is ironic for the industry that is being regulated and monitored to be part of the monitoring and regulating authority. Looking at the records, clearly, they played a big part in dictating the thrust and the direction of the Committee; therefore, the Committee recommended

that they be removed from membership in the IAC-T.

#### *Conclusion*

Smoking deceives the people by pretending to be a relief. But in the same way, given these facts, we cannot pretend that we have relieved the problems brought about by prevalence of smoking through the enactment of RA 9211.

The number of people dying due to the ill-effect of tobacco smoke is high and is getting higher as we speak. The effect on innocent people especially the children is great. The damage to the environment is devastating. We need not wait for these ruinous things to happen. We can act now and we should.

Before I end, I would like to acknowledge the presence of our supporters. A lot have worked hard on the fulfillment of this bill and we also have children who are working strongly for the passage of this bill. I would like to mention that the bill mandates the DOH to recommend the kind of pictograph warnings which, I believe, will be changed every 12 months.

When I was in one of our neighboring countries recently, I noticed – and if we saw the pictures – a lot of them are very graphic about different diseases. But believe it or not, one thing that caught my attention as a mother and as a victim of passive smoke was the picture depicting children and I think the statement was something like “We are suffering because you smoke.”

A lot of times and I look at the Minority Leader because the two of us have found ourselves in situations – socially, officially, politically with people who are not cognizant of the fact that as they enjoy their cigarette, they are not only making it extremely uncomfortable for us but endangering our health. *Kasi ako, puwede kong tiisin yung discomfort, pero knowing that it is bad for my health, sayang naman yung lahat ng iba kong ginagawa na magpalakas ng katawan kung na-negate lang ng sigarilyo.*

So having said that, I would like to thank the people who worked very hard for the passage of this bill, including my staff who made the presentation and worked on it as well. With that I seek your support and that of my colleagues for Senate Bill No. 2377, under Committee Report No. 69 and Senate Bill No. 2378, under Committee Report No. 70.

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**MOTION OF SENATOR PIMENTEL**

Upon motion of Senator Pimentel, there being no objection, the Body approved the putting up of signs saying "June is a non-smoking month" in the session hall and along the corridors of the Senate building.

In addition, Senator Cayetano (P) suggested that as an advocacy of the Senate, posters saying "Smoking is harmful to the health of the person beside you" should be permanently placed in the Senate building. She said that a person can kill himself by smoking, if he wants to, but not the person beside him. She noted that many people know that second-hand smoke kills but disregard the dangers.

Expressing support for the proposals, Senator Pangilinan stated that he would bring these matters to the attention of Senate President Villar.

Lastly, Senator Cayetano (P) expressed hope that the bill would be passed in June as part of the National No-Smoking Month. She said that the Members would be provided with information materials to help them prepare for the debates next week.

**SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2377**

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. 70 on Senate Bill No. 2378 from the Calendar for Ordinary Business to the Calendar for Special Orders.

**COMMITTEE REPORT NO. 70 ON SENATE BILL NO. 2378**

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2378 (Committee Report No. 70), entitled

AN ACT AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9211, OTHERWISE KNOW AS "AN ACT REGULATING THE PACKAGING, USE, SALE, DISTRIBUTION AND ADVERTISEMENTS OF TOBACCO PRODUCTS AND FOR OTHER PURPOSES."

**MANIFESTATION OF SENATOR PANGILINAN**

Senator Pangilinan reiterated that the sponsorship speech of Senator Cayetano (P) on Senate Bill No. 2377 also serves as the sponsorship speech on Senate Bill No. 2378.

**SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2378**


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

**ADJOURNMENT OF SESSION**

Upon motion of Senator Pangilinan, there being no objection, the Senate President Pro Tempore declared the session adjourned until three o'clock in the afternoon of Tuesday, June 10, 2008.

*It was 8:07 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO-REYES  
Secretary of the Senate  
*AL* *MD* *ASO*

Approved on June 10, 2008