



REPUBLIC OF THE PHILIPPINES
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SESSION NO. 77
Wednesday, May 28, 2014

SIXTEENTH CONGRESS
FIRST REGULAR SESSION

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CALL TO ORDER

At 3:13 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Joseph Victor G. Ejercito led the prayer, to wit:

Mahal na Panginoon, muli kaming nagtitipun-tipon sa hapong ito upang magampanan ang aming mga tungkulin. Ipinapaabot namin ang aming lubos na pasasalamat sa Iyong pagmamahal at sa mga biyayang ipinagkaloob Ninyo sa amin.

Sa kabila ng mga pagsubok na kinakaharap ng institusyong ito na aming kinabibilangan, kami po ay hindi nawa-walan ng pag-asa na magiging maayos din ang lahat at tanging kapakanan ng aming mga kababayan ang higit na mananaig.

Biyayaan Ninyo nawa kami ng sapat na karunungan at malinis na kalooban upang patuloy naming magampanan ang aming mga tungkulin. Nawa'y hindi po Ninyo pahintulutan na mawala ang aming kagustuhang magsilbi sa bayan sa kabila

ng malaking hamon na aming kinakaharap.

Ang lahat po ng ito ay ibinabalik namin sa Iyo, Panginoon.

Amen.

ROLL CALL

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

Angara, S.	Honasan, G. B.
Aquino, P. B. IV. B.	Lapid, M. L. M.
Binay, M. L. N. S.	Legarda, L.
Drilon, F. M.	Osmeña III, S. R.
Ejercito, J. V. G.	Pimentel III, A. K.
Enrile, J. P.	Poe, G.
Escudero, F. J. G.	Sotto III, V. C.
Estrada, J.	Trillanes IV, A. F.

With 16 senators present, the Chair declared the presence of a quorum.

Senators Cayetano (A), Recto and Revilla arrived after the roll call.

Senator Cayetano (P), who was on official mission, likewise arrived after the roll call.



Senators Marcos and Villar were on official mission, the latter abroad.

Senator Defensor Santiago was on indefinite qualified medical leave as indicated in her letter dated May 14, 2014.

Senator Guingona was absent.

APPROVAL OF THE JOURNAL

Upon motion of Senator Aquino, there being no objection, the Body dispensed with the reading of the Journal of Session No. 76 (May 27, 2014) and considered it approved.

REFERENCE OF BUSINESS

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

BILLS ON FIRST READING

Senate Bill No. 2240, entitled

AN ACT AMENDING ARTICLE 1773 OF REPUBLIC ACT NO. 386, OTHERWISE KNOWN AS THE NEW CIVIL CODE OF THE PHILIPPINES BY CLARIFYING THE LEGAL EFFECT OF FAILURE TO COMPLY WITH THE FORMAL REQUIREMENTS IN A CONTRACT OF PARTNERSHIP WHERE AN IMMOVABLE PROPERTY IS CONTRIBUTED

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committees on Trade, Commerce and Entrepreneurship; and Constitutional Amendments and Revision of Codes

Senate Bill No. 2241, entitled

AN ACT AMENDING REPUBLIC ACT NO. 10361, OR THE DOMESTIC WORKERS ACT, BY CLARIFYING THAT THE FINE IMPOSED THEREIN SHALL INURE TO THE SOLE BENEFIT OF THE AGGRIEVED DOMESTIC WORKER, WHICH MAY

BE AWARDED IN THE SAME LABOR, CIVIL OR CRIMINAL PROCEEDINGS INSTITUTED BY THE DOMESTIC WORKER

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committees on Labor, Employment and Human Resources Development; and Social Justice, Welfare and Rural Development

Senate Bill No. 2242, entitled

AN ACT EXPANDING THE LIST OF PROHIBITED ACTIVITIES IN PROTECTED AREAS, INCREASING THE PENALTY FOR VIOLATIONS THEREOF AND AMENDING FOR THESE PURPOSES REPUBLIC ACT NO. 7586, OTHERWISE KNOWN AS THE NATIONAL INTEGRATED PROTECTED AREAS ACT OF 1992 (NIPAS ACT OF 1992)

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committee on Environment and Natural Resources

Senate Bill No. 2243, entitled

AN ACT PROVIDING FOR THE LEGAL FRAMEWORK TO GOVERN SPECIAL USE AGREEMENTS IN PROTECTED AREAS

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committee on Environment and Natural Resources

Senate Bill No. 2244, entitled

AN ACT REPEALING CHAPTER I OF TITLE III OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committee on Ways and Means

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Senate Bill No. 2245, entitled

AN ACT ESTABLISHING THE REGULATORY FRAMEWORK FOR THE SAFE OPERATIONS OF THE LIQUEFIED PETROLEUM GAS (LPG) INDUSTRY, DELINEATE THE POWERS AND FUNCTIONS OF VARIOUS GOVERNMENT AGENCIES, DEFINE AND PENALIZE CERTAIN ACTS, AND FOR OTHER PURPOSES

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committees on Trade, Commerce and Entrepreneurship; Energy; and Finance

Senate Bill No. 2246, entitled

AN ACT SETTING THE LIMITS ON THE POWER OF THE PRESIDENT TO REAPPOINT BYPASSED NOMINEES

Introduced by Senator Trillanes IV

To the Committee on Constitutional Amendments and Revision of Codes

RESOLUTIONS

Proposed Senate Resolution No. 670, entitled

RESOLUTION URGING THE SENATE COMMITTEES ON ELECTORAL REFORMS AND PEOPLE'S PARTICIPATION AND CONSTITUTIONAL AMENDMENTS AND REVISION OF CODES AND LAWS TO CONDUCT A STUDY, IN AID OF LEGISLATION, ON THE EFFECTIVENESS OF THE ANTI-WIRE TAPPING LAW UNDER REPUBLIC ACT NO. 4200, TO COMBAT ELECTION FRAUD AND SIMILAR ELECTORAL VIOLATIONS

Introduced by Senator Grace Poe

To the Committees on Electoral Reforms and People's Participation; and Public Order and Dangerous Drugs

Proposed Senate Resolution No. 671, entitled

RESOLUTION DIRECTING THE SENATE

COMMITTEES ON WAYS AND MEANS; HEALTH AND DEMOGRAPHY; AND FINANCE TO ASSESS AND REVIEW, IN AID OF LEGISLATION, THE IMPLEMENTATION OF THE SIN TAX LAW (REPUBLIC ACT 10351) IN PARTICULAR ITS INTENDED OBJECTIVES OF FUNDING THE UNIVERSAL HEALTH CARE PROGRAM AND PROVIDING EFFICIENT MEDICAL ASSISTANCE TO ORDINARY CITIZENS

Introduced by Senator Grace Poe

To the Committees on Ways and Means; Health and Demography; and Finance

Proposed Senate Resolution No. 672, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEES TO INVESTIGATE, IN AID OF LEGISLATION, THE HEALTH CARE NEEDS OF PREGNANT WOMEN IN PHILIPPINE JAILS IN LIGHT OF THE REPORTED DEATH OF A DETAINEE'S NEWBORN CHILD ALLEGEDLY DUE TO LACK OF IMMEDIATE AND ADEQUATE MEDICAL ASSISTANCE BY GOVERNMENT AUTHORITIES

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committees on Justice and Human Rights; and Women, Family Relations and Gender Equality

COMMUNICATION

Letter from the *Bangko Sentral ng Pilipinas*, transmitting to the Senate copies of the following certified and authenticated BSP issuances in compliance with Section 15(a) of Republic Act No. 7653 (The New Central Bank Act):

Circular Letter No. CL-2014-030 dated 08 May 2014;

and Circular No. 831 dated 02 May 2014.

To the Committee on Banks, Financial Institutions and Currencies

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ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

Senate Bill No. 2247, entitled

AN ACT INCREASING THE PENALTIES FOR VIOLATIONS OF THE TERMS AND CONDITIONS OF ENVIRONMENTAL COMPLIANCE CERTIFICATE AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE 1586

Introduced by Senator Maria Lourdes Nancy S. Binay

To the Committee on Environment and Natural Resources

Senate Bill No. 2248, entitled

AN ACT STRENGTHENING THE OPERATIONS OF THE NATIONAL LABOR RELATIONS COMMISSION, AMENDING FOR THIS PURPOSE ARTICLES 213 AND 215 OF P.D. NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

Introduced by Senator Sonny Angara

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 2249, entitled

AN ACT TO STRENGTHEN THE SUSTAINABILITY AND COMPETITIVENESS OF THE PHILIPPINE MOTOR VEHICLE MANUFACTURING INDUSTRY

Introduced by Senator Sonny Angara

To the Committees on Trade, Commerce and Entrepreneurship; Ways and Means; and Finance

RESOLUTIONS

Proposed Senate Resolution No. 673, entitled

RESOLUTION DIRECTING THE SENATE

COMMITTEE ON PUBLIC WORKS TO INVESTIGATE, IN AID OF LEGISLATION, THE STATUS OF THE RECONSTRUCTION AND REHABILITATION OF CLASSROOMS, SCHOOL BUILDINGS AND OTHER EDUCATIONAL FACILITIES DAMAGED BY SUPERTYPHOON "YOLANDA", AND WHETHER THE FUNDS APPROPRIATED FOR THE PURPOSE WERE RELEASED, IN ORDER TO RESTORE NORMALCY AND ENSURE THE WELFARE OF THE STUDENTS AND THE WHOLE ACADEMIC COMMUNITY IN THE AREA

Introduced by Senator Marcos

To the Committee on Public Works

Proposed Senate Resolution No. 674, entitled

RESOLUTION URGING THE SENATE COMMITTEES ON WOMEN, FAMILY RELATIONS AND GENDER EQUALITY; AND ON JUSTICE AND HUMAN RIGHTS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE CONDITION OF FEMALE PRISONERS IN THE COUNTRY, WITH THE END IN VIEW OF INSTITUTING MEASURES FOR THE EQUAL PROTECTION OF WOMEN IN PRISON AND TO IMPLEMENT THE CONSTITUTIONAL GUARANTEE AGAINST SUBSTANDARD OR INADEQUATE PENAL FACILITIES

Introduced by Senator Grace Poe

To the Committees on Justice and Human Rights; and Women, Family Relations and Gender Equality

Proposed Senate Resolution No. 675, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEES ON YOUTH, WOMEN AND FAMILY RELATIONS; AND ON NATIONAL DEFENSE AND SECURITY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REPORTED INSTANCES OF RECRUITMENT AND USE OF CHILDREN BY ARMED

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GROUPS, WITH THE OBJECTIVES OF CRAFTING EFFECTIVE POLICIES FOR ITS PREVENTION AND REVIEWING EXISTING MEASURES ON THE REINTEGRATION OF FORMER CHILD SOLDIERS IN MAINSTREAM SOCIETY

Introduced by Senator Grace Poe

To the Committees on Youth; and National Defense and Security

Proposed Senate Resolution No. 676, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE KILLINGS OF ATTYS. ISAGANI GARCIA, NOEL D. ARCHIVAL, PROSECUTOR ISAAN SAWADJAAN, ASSISTANT PROSECUTOR SAIPAL ALAWI, SR., AND OTHER SLAIN LAWYERS WITH THE END IN VIEW OF ENACTING MEASURES TO SECURE THE SAFETY AND WELFARE OF THE MEMBERS OF THE PHILIPPINE BAR

Introduced by Senator Pimentel III

To the Committee on Justice and Human Rights

Proposed Senate Resolution No. 677, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION AS TO THE STATUS OF THE REHABILITATION AND RECONSTRUCTION OF SCHOOL BUILDINGS AND CLASSROOMS OF PUBLIC ELEMENTARY AND HIGH SCHOOLS, AND STATE UNIVERSITIES AND COLLEGES (SUCs) IN THE YOLANDAHIT REGIONS AND PROVINCES WITH THE END VIEW OF ADDRESSING THE SLOW IMPLEMENTATION OF THE ON-GOING REHABILITATION PROGRAM OF THE GOVERNMENT

Introduced by Senator Joseph Victor Ejercito

To the Committee on Public Works

Proposed Senate Resolution No. 678, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE REHABILITATION EFFORTS OF THE GOVERNMENT PARTICULARLY THE CONSTRUCTION OF HOUSING AND/OR DECENT SHELTER FOR THE VICTIMS OF SUPER TYPHOON YOLANDA

Introduced by Senator Joseph Victor Ejercito

To the Committee on Urban Planning, Housing and Resettlement

Proposed Senate Resolution No. 679, entitled

RESOLUTION URGING THE SENATE COMMITTEES ON ELECTORAL REFORMS AND PEOPLE'S PARTICIPATION; AND CONSTITUTIONAL AMENDMENTS AND REVISION OF CODES TO CONDUCT AN OMNIBUS REVIEW AND ASSESSMENT OF THE COUNTRY'S SUFFRAGE LAWS, IN THE LIGHT OF THE CONTINUOUSLY ADVANCING AND EVOLVING TECHNOLOGIES AND PREVENTING FUTURE MORE SCHEMING ELECTION-RELATED FRAUD

Introduced by Senator Grace Poe

To the Committees on Electoral Reforms and People's Participation; and Constitutional Amendments and Revision of Codes

COMMITTEE REPORT

Committee Report No. 33, submitted by the Committee on Banks, Financial Institutions and Currencies on Senate Bill No. 2159, introduced by Senator Osmeña III, entitled

AN ACT AMENDING REPUBLIC ACT NO. 7721, OTHERWISE KNOWN AS AN ACT LIBERALIZING THE ENTRY AND SCOPE OF OPERATIONS OF FOREIGN BANKS IN THE PHILIPPINES AND FOR OTHER PURPOSES,

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Introductory recommending its approval without amendment, taking into consideration House Bill No. 3984.

Sponsor: Senator Osmeña III

To the Calendar for Ordinary Business

PRIVILEGE SPEECH OF SENATOR POE

Availing herself of the privilege hour, Senator Poe delivered the following speech:

ON THE 10TH ANNIVERSARY OF "HELLO GARCI"

Ten years ago this month, an event changed the face of Philippine politics forever, a scandalous event which exposed the labyrinth of deceit, malfeasance and fraud that plagued the administration of Gloria Macapagal Arroyo.

It is often said that Filipinos are too forgiving—that we have short-term memories. *Ilan na lang ba sa atin ang nakakaalala sa "Hello Garci"?* But I believe that many Filipinos still remember as I do. And I know that I won in the 2013 elections precisely because people remember FPJ and the great injustice Mrs. Arroyo committed against the voters. "Hello Garci," for better or worse, changed the course of history in the Philippines.

I ask that the Body indulge me for the next few minutes, as I bring you back to our nation's history in the 2004 Presidential Elections.

Part I: A Manufactured Mandate

Election fraud is nothing new in the Philippines. It has been with us even before our republic was born. In fact, in the very first election to decide who should be the leader of the new republic, Bonifacio accused Aguinaldo of cheating. Bonifacio refused to abide by the results of the Tejeros Convention and in the end he paid the ultimate price at the hands of his own comrades at the foothills of Maragondon.

May kasabihan sa Pilipinas na walang pulitikong natatalo, nadadaya lang. This is how they trivialize election results. But the case of Fernando Poe, Jr. was very different because for the very first time, there was real, clear, hard evidence to prove that massive cheating did take place in 2004. Aside from the notorious "Hello Garci" wiretaps which captured Gloria Arroyo talking to then Comelec Commissioner Garcillano, there is a host of other evidentiary proof to show

that the Arroyo camp cheated their way to victory.

This presentation is from the painstaking research of Maria Azucena "Marichu" Vera Perez-Maceda, and I would like to thank her. The following presentation we are about to show will illustrate how Garci and his minions succeeded in subverting the will of the people.

At this juncture, a video presentation was shown with Senator Poe's own narration:

"The presidential elections of 2004 will be long remembered as an electoral exercise marred by massive cheating. A year after the elections, the "Hello Garci" tapes surfaced which proved beyond doubt that certain unscrupulous Comelec officials like Commissioner Garcillano were in cahoots with Gloria Macapagal Arroyo to manipulate the election results in her favor. The "Hello Garci" tapes provided the smoking gun proof that the will of the people was subverted. Evidence upon evidence showed blatant tampering of election documents, fabricated election results, shameless padding of voters' lists, glaring instances of *dagdag-bawas*, all done with one objective: to manufacture a fake mandate for Mrs. Arroyo.

"To better understand how they cheated, we must first follow the vote. Ballots were cast and counted in precincts. The tally of votes are sent to the city or municipal hall where votes are summarized. Vote totals from each election return or ER are then sent to the provincial capital, then finally to Congress for canvassing of national positions.

"Let us take a closer look at the ERs. As required by law, the total number of votes is closed by signing of names and affixing of right thumb marks by board of election inspectors. There is no way this small round marks, some even with artistic designs, were closed with human fingerprints. Notice that the ink used were not the same as the grayish black provided by Comelec. We cannot overemphasize the fact that the ER is the election document closest to the ballot. The ER, therefore, reflects the true results of voting. But the scheme did not stop there. The voters' examples show the padding of the voters' lists.

"In the towns of Santander to Bogo, the total number of voters was 325,310. But in the summary of statement of votes, the figure increased to 385,310 votes.

"In the summary of votes in Compostela to

Cordova, the total number of registered voters was 257,800. But in the summary of SOV, the figure increased to 419,470. In these two cases alone, the total padding of registered voters amounted to 221,570 fake additional voters.

"The case was no different in Basilan with the total number of registered voters who actually voted was 130,730. But recorded votes rose to 136,297. Where did the additional 5,567 votes come from?

"Such padding of registered voters' lists was consistently repeated in many other districts. The election returns in Poona-Bayabao, Lanao del Sur showed FPJ with 42% of the votes. But the provincial SOV gave GMA 100% and zero for FPJ. In this SOV, 100% of the votes were for GMA and all other candidates scored zero. This is a statistical impossibility.

"In Barangay Langan, the ER showed that there were votes for FPJ and other candidates. In Bumbaran, the ER showed GMA got 27% of the votes and FPJ with 73%. But the municipal canvass and the provincial count revealed an unmistakable switch showing GMA with 74% of the votes and FPJ with 26%.

"In Wao, the ER again showed GMA trailing 33% of the votes and FPJ with 67%. But in the municipal canvass and the provincial count, the figure switched again showing FPJ with 39% and GMA with 61%. A total of 10,074 votes were affected by *dagdag-bawas* in the town of Pangutaran, Sulu alone.

"The fight between FPJ and GMA was made to appear to be close in the whole of Sulu. The ER showed FPJ leading, but the lead changed in municipal and provincial levels. Total votes affected: 53,893.

"A noteworthy discovery in the Municipality of Isulan in Sultan Kudarat showed that the registered voters were 300; actual voters, 300. Look now at GMA's total votes: 1,041. How did that happen?

"Vote tallies in Maguindanao were stranger, 11 municipalities had no elections, but produced election results showing GMA getting 99% of the votes. *Malinaw na malinaw ang dayaan kahit na hindi pa natin isama ang marami pang probinsiya na may pruwera ng dayaan.*

"In the end, Mrs. Arroyo got what she wanted — a fabricated margin of one million votes."

At this juncture, a video of President Arroyo was shown:

Mrs. Arroyo: "I was anxious to protect my votes and during that time, I had conversations with many people, including a Comelec official. I recognize that making any such call was a lapse in judgment. I am sorry!"

(End of video presentation)

Kung marumi ang halalan, walang maasahang tunay na serbisyo ang mamamayan. Ang isang pulitikong nandaya at namili ng boto ay hindi kailanman maglilingkod nang buong katapatan sa ating sambayanan.

To summarize what you have just seen, the 2004 presidential elections was easily one of the dirtiest in history. *Sa maraming lugar sa Pilipinas may mga boto nang naka-"chamberload" para kay Mrs. Arroyo. Sa buong akala ni Mrs. Arroyo, sapat na ang kanyang mga "naka-bangkong boto" para manalo siya.*

But the Arroyo camp grossly underestimated FPJ's popularity, and a week after the elections Mrs. Arroyo realized that her "buffer" votes (or "chamber-loaded" votes) were not enough to cover the avalanche of FPJ votes coming in from Metro Manila and the "Lingayen-Lucena Corridor." This is the reason why Mrs. Arroyo had to call Garci. Seeing that she was losing heavily in Luzon, Mrs. Arroyo realized that she needed Mindanao to win. This is why she made no less than fifteen phone calls. GMA realized that the fabricated votes that her minions "chamber-loaded" before the elections were not enough to make her win.

The only problem was, Mindanao was FPJ's bailiwick — so *nahirapan silang manipulahin ang halalan sa pamamagitan lamang ng vote-buying*. That is why they resorted to rigging the results at the provincial level and then at the national level. As I have shown in my film presentation, *lumilitaw na sa maraming bayan sa Mindanao, panalo si FPJ sa municipal canvass level, pero pagdating sa provincial level, nabaliktad ang resulta*. This was how brazen they were in committing fraud — *kaya sila nabuko*. Unlike in certain areas *na sinasabi nilang pulido, "malinis" ang pagkagawa, sa Mindanao ay hindi*.

Part II: Justice and Reform

In our country, many wrongdoers do not get punished while good people are made to suffer when they come out and speak the truth. But almost all those who were involved in the "Hello Garci" tapes have not been charged to date, much less spent a single night in jail, perhaps except Lintang Bidol. Worse, some of those involved are still in government today.

Whatever happened to these individuals who figured in the "Hello Garci" scandal?

We have Benjamin Abalos Sr., former Comelec chairman, resigned after he was implicated in the NBN-ZTE scandal, rumored to have plans to run again for public office after he was briefly imprisoned for the NBN-ZTE scandal.

Virgilio Garcillano – former Comelec Commissioner, overall point person in the "Hello Garci." He has a current perjury and falsification of public documents case pending in the Office of the Ombudsman. He ran for Congress in Bukidnon and lost.

Lintang Bedol – provincial election supervisor for Sultan Kudarat. He was the point-person for the COC manipulation in Cotabato City, currently detained at Camp Crame.

Rey Sumalipao – provincial election supervisor in Lanao del Sur for May 2004. Alleged role: manipulated election results in Lanao del Sur. Currently, he is ARMM regional election director.

Ignacio Bunye – former Press Secretary. Role: covered up the Garci scandal. Status: recently left the Monetary Board of the Bangko Sentral ng Pilipinas, a cozy job given to him after being involved.

On the other hand, whatever happened to those courageous individuals who risked life, family, comfort and career to speak the truth?

1. General Francisco Gudani – originally assigned as head of Task Force Lanao. He fearlessly testified on the massive fraud in Lanao del Sur. He initiated a campaign for electoral reforms. Status: retired.
2. Sergeant Vidal Doble – leaked the existence of *Project Lighthouse*, spoke in the Senate. Status: whereabouts unknown. Every now and then, we see him.
3. Michaelangelo Zuce
4. Abdullah Daligdig – recently passed away a year or two ago. He died and he was not even rewarded for his role in exposing the truth.
5. Atty. Samuel "Sammy" Ong – deputy director of NBI who released the three-hour mother of all tapes; a brave NBI officer who fought for the truth but had to hide because there was an arrest warrant against him. He died on May 22, 2009.
5. Alexander Balutan – worked with General Gudani as member of Task Force Lanao, now

a brigadier general, currently head of the First Marine Brigade in Sultan Kudarat.

The best deterrent to corruption is to punish the wrongdoers and reward legitimate whistleblowers. I stress "legitimate" because many are now coming out in the woodwork volunteering to be whistleblowers *pero alam naman natin puno pa rin sila ng kasinungalingan*. There is a difference between the initiation of a patriot and that of a snitch or a weasel. One is a selfless act to uphold the truth, the other is a selfish one to save his or her own hide. We need to distinguish and protect a true whistleblower. We need to pass a "Whistleblower Protection Act."

Together with my declaration of support for the immediate enactment of the Whistleblowers Protection Act, I filed Proposed Senate Resolution No. 679 this morning calling for the omnibus review of the Electoral Code of the Philippines. The resolution seeks to assess the provisions of Batas Pambansa 881 (Philippine Electoral Code), in particular the provisions on "new election fraud" situations and the implications of information technology, innovations and hardware on such election offense. Likewise, a review of the following laws are in order: the institutionalization of an automated system of election and the additional reforms in the electoral system such as those in Republic Act Nos. 8436, 9369, 7166, 6646, 8045 and 8173.

By institutionalizing reforms, we protect not only the present generation but especially future generations.

The silver lining in this unfortunate travesty is that the Filipino people finally realized the urgent need to reform our electoral system and to help our country's "migration" from manual to automated elections. Automated elections, though less than perfect, substantially lessened the possibility of human intervention and error, reduced the opportunity for fraud, and abbreviated the long-tedious procedure of canvassing. Candidates spend less because they do not have to hire a poll watcher for every precinct.

Concurrent with the resolution I filed this morning, I will be submitting legislation that will address the new dynamics of automated elections and reformulate our outdated laws by creating a new set of penalties for computer-aided, technology-driven election offenses. We need to prevent "high-tech" election fraud that can make a mockery of our electoral systems once again.

Likewise, the Anti-Wiretapping Law should be amended to include not only terrorism,

espionage and other crimes involving national security, but also election fraud as one of the crimes in which a court could authorize a wiretap. Last May 26, I filed Senate Resolution No. 670 urging the Committee on Electoral Reforms to conduct a study, in aid of legislation, on the effectiveness of the Anti-Wiretapping Law (R.A. No. 4200) in preventing election fraud and similar offenses. We need to equip the proper authorities with the proper tools so they can successfully detect, preempt and prosecute would-be cheaters and unscrupulous defrauders of elections.

Moreover, I will also be proposing that the prescriptive period for election offenses be increased, from the current five (5) years to ten (10) years. As we have seen, almost none of the "Garcia Boys" or those mentioned in the "Hello Garcia" tapes have spent a day in jail simply because they enjoyed protection from the powers-that-be. The President is also immune from suit for the duration of his or her six-year term, thus no charges can be filed against Mrs. Arroyo for her complicity in the 2004 election fraud until her term ended in 2010.

Mrs. Arroyo became president through fraudulent means. What she had was merely a mandate "manufactured" for her by her election operators. This ultimately proved to be her weakness. Mrs. Arroyo had no real mandate and no moral ascendancy, that is why she became utterly dependent on those unscrupulous individuals who helped manufacture her mandate. And this dependence has only resulted in a cycle of never-ending series of corruption scandals during her nine years in office – the NBN-ZTE deal, fertilizer fund scam, the Jose Pidal accounts, the overpriced Macapagal Boulevard, NAI Terminal 3 fiasco, the Euro-Generals/"Pabaon" scandal, Northrail project, Jueteng-gate. The list and litany of corruption goes on and on.

We should prevent these from happening again. We should ensure that our right to vote and to choose our leaders are protected.

Robert F. Kennedy once said: "Few will have the greatness to bend history itself; but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation."

Many of our colleagues here have worked with FPJ either in the film industry or during the 2004 campaign. I am sure they have witnessed his generosity, humility, and genuine spirit. FPJ identified with the poor, he felt their pain. He was for them unlike others who profess to be but act otherwise.

Ang iba ay nagsabi, "Sayang naman. Bakit pa pumasok sa pulitika si FPJ. Nasayang lang ang kanyang pagtakbo." Ngunit hindi po nasayang. Ang ehemplong ipinakita ni FPJ tulad ng tunay na pagkalinga sa kapwa at dahil nga sa mga nangyaring dayaan ang pagpapatunay na mahalaga ang bawa't boto ng Pilipino, mahirap man o mayaman. Iisa lamang ang ating boto. Ang sabi nga ng ating kasamang si Sen. Chiz Escudero, "Ang boto ng bawa't isa ay higit na sapat upang sabihin na siya ay nagtagumpay." When FPJ was asked what he thought about the events following the elections, he spoke for the most marginalized members of society when he answered, "Huwag nating alisin ang pag-asa sa ating mga kababayan. Baka iyon na lang ang natitira sa kanila."

And so, please allow me to pay tribute not just to my father but to the millions of Filipinos who waited long hours under the heat and rain, and who made the long journey just to cast their votes, sometimes under dangerous conditions, and those who came out to defend the truth even in the most trying times.

This is for them.

At this juncture, another video presentation was presented.

REMARK OF SENATOR SOTTO

Senator Sotto congratulated Senator Poe for delivering a well-crafted speech. He expressed his concurrence to its contents and associated himself with its message.

REMARKS OF SENATOR LEGARDA

Senator Legarda commended and congratulated Senator Poe for her timely speech about what transpired during and after the 2004 elections. She said that it was a rare and unique privilege for her to have been selected as the running mate of Fernando Poe, Jr. She disclosed that after she lost in the vice presidency race, there were many who told her that it was a foolish decision on her part because she could have run for one more term as senator considering that she was still young. Nonetheless, she pointed out that the historical records of the Supreme Court would show that they fought a good fight for three years, from 2004 to 2007, after Fernando Poe Jr. passed away in December of 2004, to contest the election results. Like Senator Sotto,

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she said that she was associating herself with the message of the speech.

Senator Legarda disclosed that copies of all election returns (ERs) and certificate of canvass (COCs), similar to those shown by Senator Poe in her speech, those in possession of Congress and even those in the archives of the Supreme Court, are stored in a sacred cabinet in her home which she has not opened since she closed her electoral battle in 2007.

She recalled that she once assured Ms. Marichu Vera-Perez that she has already moved on, but upon seeing the pictures and videos shown in Senator Poe's speech, she realized that there was still pain in her. She said that among those who also waited for the election results and thereafter fought with them as they contested the results were Senators Honasan, Sotto, Jinggoy Estrada, Enrile, JV Ejercito, Escudero who was then the spokesperson, and Osmeña who was the strategist, former Senator Nene Pimentel, and Makati Mayor Jejomar Binay.

She expressed gratitude to Senator Poe for letting not only the senators but the entire Filipino nation recall the greatness of the late Fernando Poe Jr. She also hoped that the framed letter sent to her by Fernando Poe Jr. last January 1, 2004, asking her to be his running mate was already received by Senator Poe. Finally, she said that they may have lost the election but history proved otherwise.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Cayetano (A) acknowledged the presence in the gallery of Senator Poe's guests, namely: Boots Cadsawan, leader of the Fernando Poe Jr. (FPJ) For President Movement; Ms. Marichu Vera-Perez Maceda; Ms. Conchita Razon; Mr. Adonis Samson; Ms. Norma Lim and family; Ms. Elizabeth Poe and Evangeline Poe Quesada, sisters of FPJ; and Mr. Freddie Poe, brother of FPJ.

Senate President Drilon welcomed the guests to the Senate.

INTERPELLATION OF SENATOR CAYETANO (A)

At the outset, Senator Cayetano (A) congratulated Senator Poe for her timely speech. He believed that

like him and his sister Senator Pia who would give up their posts as senators just to be with their father, Senator Poe would give up anything, even her being number one in the senatorial race, just to be with her father. He also believed that Senator Poe draws comfort from people, including her mother and the members of her family in the gallery, when they tell her how very proud her father was of her.

Asked by Senator Cayetano (A) whether she believes in the biblical saying that "What you sow is what you reap," Senator Poe believed that there is "*karma*," only that nobody would know when and how justice would be served.

Senator Cayetano (A) presumed that mothers teach their children what is right and what is wrong. He wondered what would happen if a mother would condone the wrongdoings of their children or spoil them, or allow them at a young age to discern on their own the concept of what is right and what is wrong, with their wrongdoings getting unpunished or unreprimanded. Senator Poe replied that mothers should show to their children the wrongs that they committed, accompanied by reprimands or punishments.

Senator Cayetano (A) lamented that in the same manner, when the nation allowed the "Hello Garci" scandal perpetrators to go scot-free, it is once again a witness of a replay of scandalous events, specifically mentioning the Napoles scam. He noted that the "Hello Garci" scandal was in its tenth year, while next month would be the ninth year since the scandal was investigated by the House of Representatives. He recalled how he, along with the members of the team that sought the impeachment of President Arroyo, namely, Senators Escudero and Guingona, Secretary Joel Villanueva, Congressman Romualdo Zamora and many others, worked hard so that the truth would come out.

Senator Cayetano (A) then proceeded to cite some similarities in both the "Hello Garci" scandal and the Napoles scam — both involved "*dagdag-bawas*" in the sense that then Secretary Bunye came out with two tapes of the wiretapped phone conversation, while in the Napoles scam, several lists were coming out; and most notably, the personalities of both scandals thought that they can get away with it, although Napoles is in jail but for another crime, while Garcillano is still enjoying life and has never spent a day in jail.

Asked to comment on the statement of Comelec Chairman Sixto Brillantes that nothing else could be done in the case of Garcillano because it was beyond the prescription period, Senator Poe admitted that anyone would be upset and disgusted, but on the other hand, she said that she also understands the limitations that Chairman Brillantes has because of the rules that govern the agency and the laws that govern the country. It was for reason, she said, that she was proposing to amend the election law by, among others, extending from five years to ten years the prescription period for election offenses in consideration of the fact that the President serves a six-year term during which he cannot be charged for or be made to answer any case against him, and by the time he leaves office, the prescription period already expires. She said that the "Hello Garci" scandal was a wake-up call on the need to amend the election law.

Senator Cayetano (A) said that like the late Fernando Poe Jr. who suffered at the hands of the "Hello Garci" scandal in 2004, he, too, suffered the same fate at the hands of Chairman Brillantes, whom he called as a Garcillano in a sheep's skin.

Senator Cayetano (A) stated that while Garcillano cannot be prosecuted for an election offense, like Al Capone who was jailed not for the crime of which he was directly accused but for tax evasion, Garcillano could be prosecuted for perjury which he, together with Senators Lacson and Guingona and Secretary Villanueva, filed before the Fiscal's Office in Quezon City. He explained that the perjury case stemmed from Garcillano's claim under oath that he did not leave the country which was proven to be a lie when a reproduction of his passport that was submitted as evidence showed that he went actually to Singapore. Unfortunately, he said, most perjury cases in the country are being taken for granted and left to languish in the courts.

Asked if she thought that Garcillano pulled off the fraud all by himself, Senator Poe stated that based on the Garci tapes, there were a lot of conspirators involved, and that illegal detention and attempted kidnapping, among others, were also committed. She believed that Garcillano was one of the masterminds.

Senator Cayetano (A) presumed that aside from the President, there were also the "Garci boys", and he believed that Chairman Brillantes could be directly blamed because he promoted the "Garci boys" when he was installed as chairman of the Comelec.

At this juncture, Senator Cayetano (A) read into the record the transcript of what transpired on October 5, 2011, at the session hall during Chairman Brillantes' confirmation in the Commission on Appointments:

Senator Cayetano (A): Assuming we are very liberal, Mr. Chair, assuming we will give one year to reform the Comelec, what guarantee can you give the Commission? *Kasi ang problema hindi naman every year ang confirmation.* Once we give your confirmation, that's it. *Ibig sabihin wala nang bawian.* What guarantee do we have, for example, that by October or December of 2012, six months or nine months before the 2013 election, *ay nalinis na* as much as possible ang Comelec?"

Chairman Brillantes: *Malilinis ko ho iyon, I think within the next six months up to one year. If you are giving me one year, okay. Ito lang ho ang gusto kong sabihin na guarantee sa Commission on Elections. Hindi ko hiningi ang position na ito. Pag hindi ko na-reporma ang Comelec in one year's time, magre-resign na ako.*

Senator Cayetano (A): So you are giving that guarantee.

Chairman Brillantes: *Hindi ko na ho tatapusin.*

Senator Cayetano (A): So you are giving the guarantee to the Commission that by October or December next year, if the Comelec has not been reformed, meaning, that people who should be taken out, take them out, and the people who should be rewarded, rewarded them – that you will not need any prodding, but you will simply resign and give up your position.

Chairman Brillantes: Let me add that I will even resign earlier if I think I will not be able to reform the Comelec within one year.

But Senator Cayetano (A) pointed out that despite those assurances Director Ferdinand Rafanan was removed from the investigating committee because he had stated, as the head of the legal department, that no investigation was conducted by the Comelec on the "Hello Garci" scandal, contrary to Chairman Brillantes' statement that there was an investigation, and the statement of Mr. James Jimenez that the evidence had been burned. He also revealed that in a memorandum he sent to the Chairman, Attorney Rafanan enumerated the reasons why he was being relieved, and what he got was a reply from the Chairman which read: "Your memo is noted. It simply confirmed your self-centered righteousness."

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Senator Cayetano (A) recalled that most of the legislators who sided with Fernando Poe Jr. during the "Hello Garci" scandal were called "self-righteous" by Chairman Brillantes. He also mentioned that Gilbert Remulla actually investigated the scandal and got the ire of many powerful people in the country.

Senator Cayetano (A) stated that Senator Poe was the perfect person to speak on the issue of election reforms. He added that even the chairman of the Committee on Electoral Reforms and People's Participation had experienced election fraud, and he warned that it might happen again in the 2016 election especially since there were moves to do away with automation and revert to manual count.

Senator Cayetano (A) also disclosed that Chairman Brillantes had claimed that he already disbanded his law office and that he no longer has connections with his former clients, but it was not the case, Senator Cayetano (A) refuted, because he hired a child of his law partner as staff of his office. He lamented that Chairman Brillantes had promised to implement reforms, but nothing was realized.

REMARKS OF SENATOR ANGARA

Senator Angara said that as he watched the video presentation, he was reminded of the time when he first ran for representative of the lone district of Aurora. He informed the Body that in that election, he ran under the party of which Fernando Poe Jr. was the standard bearer and he thanked Senator Poe for the support that her father gave him in that particular election.

Senator Angara also remembered that their campaign in Baler, Aurora saw the biggest crowd ever gathered, something that has not been surpassed ever since. He said that the people of Aurora were really happy to see Fernando Poe Jr. and Senator Legarda who both topped the election poll in the province. He said that without the help of Fernando Poe Jr. and Senator Legarda, he would have not become a senator.

MANIFESTATION OF SENATOR ESTRADA

Senator Estrada congratulated Senator Poe for her speech, recalling that he was one of those privileged to run under the ticket of Fernando Poe Jr. in 2004. He said that running with Fernando Poe Jr. was a contributory factor to his success.

Senator Estrada affirmed Senator Poe's statements on the kind-heartedness and generous nature of Fernando Poe Jr. He emphasized how Fernando Poe Jr. and his father related with the poor.

REMARKS OF SENATOR POE

For her part, Senator Poe said that even though Chairman Brillantes was the lawyer of Fernando Poe Jr., they never enjoyed any favors from him as Comelec chairman.

REMARKS OF SENATOR LEGARDA

Senator Legarda stated that she was not privy to whatever problem or sentiment that Senator Cayetano (A) has with Chairman Brillantes. She said that Chairman Brillantes was Fernando Poe Jr.'s lawyer during the campaign as well as her own *pro bono* lawyer when she pursued her electoral protest from 2004 to 2007. She described Chairman Brillantes as being loyal not only to Fernando Poe Jr. and herself but also to the cause of uncovering the fraud. She stated that Chairman Brillantes, together with Congressman Rufus Rodriguez and ACCRA lawyer Atty. Ave Cruz, were with her all throughout the process, and helped her slip out of depression.

MANIFESTATION OF SENATOR CAYETANO (A)

Senator Cayetano (A) explained that his statements do not reflect his personal dealings with Chairman Brillantes, but that he was simply placing on record that Chairman Brillantes did not pursue the "Garci boys" but instead promoted them. He said that friendship should not get in the way of pursuing the truth.

Senator Cayetano (A) hoped that the Body would join in the clean-up of Comelec, otherwise, no electoral reform would prosper. He acknowledged that lawyers have a special relationship with their clients, therefore, he understands where the other Members are coming from. However, he cautioned that if Chairman Brillantes does not retire by next year, and he modifies the system, then there would be no change in the 2016 elections.

MANIFESTATION OF SENATOR SOTTO

Preliminarily, Senator Sotto proposed that the speech and the debates be referred to the Committee on Electoral Reforms and People's Participation at the proper time.

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Senator Sotto related an anecdote that happened during the campaign in the 2004 elections. He said that he was witness to FPJ's disapproval of using slanderous tactics against his opponents.

MANIFESTATION OF SENATOR PIMENTEL

Preliminarily, Senator Pimentel congratulated Senator Poe for a well-crafted and very informative speech, as well as for her video presentation which vividly illustrated the evidence of fraud in the 2004 presidential elections.

Referring to Senator Poe's statement that nobody loses in the elections because losers always claim to have been cheated, Senator Pimentel noted that at least in the country, someone, who lost in the elections, was really cheated because he fought for it. He believed that the real message of Senator Poe's speech was that justice would be served to those who fought for it.

Senator Pimentel stated that justice would be achieved eventually, citing his case wherein justice came only after four years and two months, and had the position been a three-year term, the protest would have been rendered moot and academic given the length of time to resolve it. Thus, he believed that one of the electoral reforms that the Body should pursue is the speedy disposition of election protests. He agreed with Senator Poe's proposal to extend the prescriptive period for electoral protests because the cheating in the 2004 presidential elections showed the weakness of the existing election law.

Senator Pimentel said that in the event that Senator Poe's speech and Senator (A) Cayetano's interpellations would be referred to his committee, he would ask for the names of the boys mentioned in the "Garci tapes," one of which was Rey Sumalipao who, according to Senator Poe, is still the incumbent ARMM regional election director. He said that he would call for a hearing and ask for justification of Director Sumalipao's continued employment at the Comelec.

As regards the Whistleblowers Protection Act, Senator Pimentel assured that his Committee would fast-track the bill together with the other witness protection bills in order to improve the witness protection program.

Senator Pimentel said that in his capacity as chair of the Committee on Electoral Reforms and People's

Participation, he was appealing to election complainants to come forward and submit their evidence and proof. He said that since the automated election system is not a perfect one, the Comelec should be asked if it would continue using the same technology in the next election. If the same technology would be used, he said that it should be hack-proof because election cheaters could find ways to take advantage of the weakness of the automated election system.

Senator Poe expressed appreciation to the Members of the Body, especially to Senator Pimentel for giving her a book with data provided by the Center for People Empowerment in Government (CENPEG).

At this juncture, Senator Pimentel reminded the Body that the Senate panel in the Joint Congressional Oversight Committee on the Automated Election System has not yet been convened and he suggested that the Body prioritize the same.

MANIFESTATION OF SENATOR EJERCITO

Senator Ejercito congratulated Senator Poe for her speech which, he said, brought back so many memories. He also thanked her for reminding the Body of the need for electoral reforms to protect the country's fragile democracy.

He expressed hope that the Body could prioritize measures that would prevent the recurrence of electoral fraud to safeguard the sacred vote of every Filipino.

REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Cayetano (A), there being no objection, the Chair referred the speech of Senator Poe and the interpellations and manifestations thereon to the Committee on Electoral Reforms and People's Participation.

Senator Cayetano (A) also stated for the record that he would request the Commission on Appointments to furnish Senator Pimentel with the names that he was asking for.

SUSPENSION OF SESSION

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

It was 4:39 p.m.

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RESUMPTION OF SESSION

At 4:43 p.m., the session was resumed.

COSPONSOR

Acting on her request, Senator Villar was made cosponsor of Senate Bill No. 2212.

COSPONSORSHIP SPEECH OF SENATOR VILLAR

Pursuant to the manifestation of Senator Aquino, the cosponsorship speech of Senator Villar on Senate Bill No. 2212 was deemed read and inserted into the Journal and Record of the Senate.

The full text of Senator Villar's speech follows:

I rise to sponsor Senate Bill No. 2212, entitled "An Act to Actively Promote Entrepreneurship and Financial Education Among Filipino Youth," under Committee Report No. 26, submitted by the Committee on Youth. Senate Bill No. 2212 is the substitute bill of the various bills filed on the subject tackling entrepreneurial education for the youth, foremost of which is Senate Bill No. 147 which I authored which calls for the inclusion of entrepreneurship as a separate subject in the secondary curriculum of schools.

As you may be aware of, my husband, former Senate President Manny Villar, and I are active advocates of entrepreneurship. As entrepreneurs ourselves, we know that entrepreneurship is the key to economic freedom of Filipinos – whether youth, women or overseas Filipino workers (OFWs). Moreover, entrepreneurship is the key towards lifting poor Filipinos out of poverty.

We have been promoting entrepreneurship as a way out of poverty because it generates employment. Unemployment is a major problem in our country. When we get the chance to talk to the youth, students, and new graduates, we urge them not to aspire to merely landing a good job or getting employed. Anyone can be an employer or a creator of jobs.

We need a new generation of entrepreneurs. And we need to start them young, as the cliché goes. Thus, incorporating entrepreneurship in the school curriculum is the most logical thing to do. While I have misgivings in introducing entrepreneurship to elementary or grade school students as they may not be able to grasp the concepts yet, I believe we can start with value

formation with them. It is important for them to learn values that will make them good entrepreneurs in the future.

People exposed to entrepreneurship frequently express that they have more opportunity to exercise creative freedoms, higher self-esteem and an overall greater sense over their own lives. As a result, many experienced business people, political leaders, economists and educators believe that fostering a robust entrepreneurial culture will maximize individual and collective economic and social success on a local, national and global scale.

As we promote entrepreneurship and we develop a new generation of entrepreneurs, we also pave the way for the creation of more micro, small and medium enterprises or MSMEs – a strong engine of growth in our country. MSMEs comprise nearly 90% of the business in our country and provide more than 50% jobs or employment. Wealth and a high majority of jobs are created by small businesses started by entrepreneurially-minded individuals, many of whom go on to create big businesses.

But oftentimes, when we urge people to venture into a business of their own, *ang sinasagot nila ay wala silang pera para gawing puhunan*. But capital is not the most important factor in becoming an entrepreneur. It is not the be-all and end-all. I know that based from my own experience

Ang real estate company namin ay nag-umpisa bilang maliit na gravel and sand company. Nang mag-resign si Manny sa kanyang trabaho noong 1975, umutang siya sa bangko ng P70,000 and with our P10,000 savings bumili kami ng dalawang second-hand trucks na ginamit namin sa pag-deliver ng graba at buhangin sa mga real estate developers. Sa awa ng Diyos at dahil sa aming sipag at tiyaga, napaunlad namin ang aming negosyo.

Manny and I are living examples of what entrepreneurs can accomplish and achieve with hard work and persistence coupled with fairness and integrity. *Noong panahon na iyon, wala pang entrepreneurship subjects or courses*, so we can just imagine how good an entrepreneur our youth will be in the future if they will be educated and trained about entrepreneurship early on in their lives.

On that note, I can confidently say that the Youth Entrepreneurship Act of 2014 is an investment to our future – the youth of today who will be tomorrow's entrepreneurs, employers, decision-makers and leaders.



Furthermore, the inclusion of entrepreneurship in the curriculum of our studies will allow our country to flourish and emerge to be one of the leading economies in Asia and the world.

SPECIAL ORDER

Upon motion of Senator Angara, there being no objection, the Body approved the transfer of Committee Report No. 33 on Senate Bill No. 2159 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 33 ON SENATE BILL NO. 2159

Upon motion of Senator Angara, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2159 (Committee Report No. 33), entitled

AN ACT AMENDING REPUBLIC ACT NO. 7721, OTHERWISE KNOWN AS "AN ACT LIBERALIZING THE ENTRY AND SCOPE OF OPERATIONS OF FOREIGN BANKS IN THE PHILIPPINES AND FOR OTHER PURPOSES."

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

Thereupon, the Chair recognized Senator Osmeña for the sponsorship.

SPONSORSHIP SPEECH OF SENATOR OSMEÑA

Senator Osmeña presented to the Body Senate Bill No. 2159, otherwise known as "Liberalizing the Entry and Scope of Foreign Banks in the Philippines."

The full text of Senator Osmeña's sponsorship speech follows:

Senate Bill No. 2159 was introduced by this Representation and approved by the Committee on Banks, Financial Institutions and Currencies without amendments, taking into consideration House Bill No. 3984, introduced by Congressman Nelson P. Collantes and others.

As the title states, this bill seeks to expand the participation of qualified foreign banks in our financial sector to allow our economy and our people to reap the benefits therefrom.

Promulgated in 1994, Republic Act No. 7721 intended to create a more competitive Philippine banking and financial system. It allowed the entry of foreign banks through any of the following modes:

1. Acquisition of up to 60% of the voting stock of an existing domestic bank;
2. Investing up to 60% of a new banking subsidiary incorporated under the laws of the Philippines; and
3. Establishment of branches in the Philippines.

In 2000, Republic Act No. 8791, also known as the General Banking Act, expanded the first mode of entry to allow foreign banks to own up to 100% of a domestic bank, but this privilege was limited to seven years.

On the other hand, the third mode of entry which allows foreign sub-branches was made available for only five years from the effectivity of Republic Act No. 7721.

This bill seeks to amend Republic Act No. 7721 to further liberalize the entry of foreign banks in the country to create a more competitive banking industry and in preparation for the Association of Southeast Asian Nations' (ASEAN) Financial Integration. In keeping with our commitment to join the ASEAN Banking Integration Framework under which qualified ASEAN banks may operate within ASEAN jurisdictions on equal terms as domestic banks, subject to certain prudential and governance standards and the approval of the *Bangko Sentral ng Pilipinas*, among the amendments introduced in this bill are as follows:

1. To allow the increase in foreign ownership of domestic banks to up to 100% without time limit;
2. Allowing entry in the Philippines of established, reputable and financially sound foreign banks, and requiring foreign bank applicants to be widely-owned and publicly listed in their own countries unless such bank is owned by the government in its country of origin;
3. Granting the Monetary Board the power to suspend the entry or any further entry of foreign banks under any or all of the modes of entry as national interest warrants;

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4. To increase the number of bank branches from three to five sub-branches as may be approved by the Monetary Board;
5. Granting locally incorporated subsidiaries of foreign banks the same banking privileges as domestic banks of the same category;
6. Allowing the Monetary Board to prescribe a higher single borrower limit for a foreign bank branch up to the equivalent of its permanently assigned capital for the purpose of promoting foreign investments; and
7. Allowing foreign banks to participate in foreclosure proceedings subject to certain restrictions.

By way of a background, the opening of the banking sector to established foreign banks was spurred by the economic benefits of a liberalized economy brought about by the General Agreement on Trade and Tariff, or the GATT. The Philippines benefitted from this move by fostering competition in the banking industry which, in turn, raised the efficiency levels of banks through the adoption of new technology and the enhancement of human resource skills, reduced operating costs, instilled corporate governance structural reforms, encouraged more transparency and further developed the supervisory and regulatory framework. It can also be said that by allowing international players in the banking industry, the Philippines witnessed an increase in the availability of funds at competitive rates and increase in the types of hybrid financial instruments or products available in the market.

With the recent credit rating upgrade of the Philippines to and beyond investment grade, the *Bangko Sentral ng Pilipinas* has received an increased number of queries from foreign banks wishing to establish a presence in the Philippines.

More importantly, the greater foreign participation in the banking and financial sector is expected to augment the financial resources to which the Philippine economy may have access, thereby supporting the initiatives of the present administration in implementing various infrastructure projects and rehabilitation programs. The greater influx of capital coming into the Philippines and the injection of additional capital into the domestic economy would see the expansion of enterprises and trades, create more jobs and livelihood opportunities for our fellow Filipinos.

The Philippines stands to gain from the proposed expansion of the financial sector and the entry of more foreign banks into the country.

For these reasons, I urge my distinguished colleagues in this Chamber to join me in enacting this measure.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2159

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

SUSPENSION OF SESSION

Upon motion of Senator Angara, the session was suspended.

It was 4:51 p.m.

RESUMPTION OF SESSION

At 5:04 p.m., the session was resumed.

COMMITTEE REPORT NO. 19 ON SENATE BILL NO. 27

(Continuation)

Upon motion of Senator Angara, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 27 (Committee Report No. 19), entitled

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

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

Thereupon, the Chair recognized Senator Cayetano (P), sponsor of the measure.

REOPENING OF THE PERIOD OF COMMITTEE AMENDMENTS

Upon motion of Senator Angara, there being no objection, the Body reopened the period of committee amendments.

AMENDED COPY OF SENATE BILL NO. 27 AS OF MAY 26, 2014

The Chair stated that for purposes of debate and proposed individual amendments, the amended copy

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of Senate Bill No. 27 as of May 26, 2014 should be used as the working draft.

FURTHER COMMITTEE AMENDMENTS

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

1. On page 3, line 15, after the words "such as" and the comma (,), retain the phrase "but not limited to";
2. On page 9a, line 17mm, replace the word "whenever" with WHETHER;
3. On page 10, line 25, between the words "enter" and "inspect," delete the comma (,) and in lieu thereof, insert the word AND.

The session was suspended and was resumed shortly thereafter.

4. On page 9a, lines 17n and 17o, replace the words and figure in parentheses "TEN MILLION PESOS (P10,000,000.00)" with FIVE MILLION PESOS (P5,000,000.00);
5. On the same page, delete lines 17q to 17y starting with the colon (:) and the words "Provided, that", and in lieu thereof, replace it with the following provision:
THE IMPOSITION OF THE ADMINISTRATIVE FINE SHALL TAKE INTO CONSIDERATION THE ANNUAL GROSS SALES, CAPITAL INVESTMENT AND EMPLOYEES SIZE OF THE MANUFACTURERS, IMPORTERS AND DISTRIBUTORS, AND IN THE CASE OF RETAILERS AND SELLERS, THEIR TOTAL ASSETS.
6. On line 17n and 17o, replace the words and figure in parentheses "TEN MILLION PESOS (P10,000,000.00)" with FIVE MILLION PESOS (P5,000,000.00);
7. On page 7, lines 14a to 15a, replace "Twenty Million Pesos (P20,000,000.00) but not more than Thirty Million Pesos (P30,000,000.00)" with TEN MILLION PESOS (P10,000,000.00) BUT NOT MORE THAN TWENTY MILLION PESOS (P20,000,000.00); and
8. On page 4, line 16, replace the word and figure "twelve (12)" with TWENTY-FOUR (24);

TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS

There being no further committee amendment,

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

SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

It was 5:14 p.m.

RESUMPTION OF SESSION

At 5:14 p.m., the session was resumed.

ENRILE AMENDMENTS

On page 2, line 9, as proposed by Senator Enrile and accepted by the Sponsor, there being no objection, the Body approved the insertion of words OR NUMBERS after the word "descriptors."

Senator Enrile stated that the reason for the proposal was to further refine the objective of the measure with respect to prohibiting any markings, specifically descriptors or numbers of the tobacco product packages, which may give the impression that a certain tobacco product is less harmful than the others.

As regards page 2a, lines 28 and 29, Senator Enrile asked if the DOH has been replaced as the implementing agency of the proposed law. In reply, Senator Cayetano (P) clarified that only the full name was deleted to avoid repetition but the acronym DOH was retained.

Senator Enrile proposed that on page 3, line 10e, the words and figure "sixty percent (60%)" be replaced with the phrase AT LEAST THIRTY PERCENT (30%) BUT NOT MORE THAN FIFTY PERCENT (50%).

SUSPENSION OF SESSION

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

It was 5:19 p.m.

RESUMPTION OF SESSION

At 5:22 p.m., the session was resumed.

Following consultation with Senator Cayetano (P), on page 3, line 10, as proposed by Senator Enrile, there being no objection, the Body approved, subject to style, to replace the word and figure "sixty percent (60%)" with FIFTY PERCENT (50%).

Senator Enrile said that the purpose of fixing the percentage was to allow the government to use 50% of the display area on the tobacco packaging, and to accommodate the intellectual property rights of the cigarette manufacturer or producer also to the extent of 50%.

Senator Cayetano (P) clarified that the 50% would be for the graphic warning and the other 50% would be for the manufacturer's use, subject to the other requirements required by the panel.

Senator Enrile proposed the following amendments on page 3, Section 4(e):

1. On line 14, after the word "sale," insert the word AND;
2. On the same line, after the word "distribution," insert the phrase IN THE DOMESTIC MARKET;
3. Still on the same line, after the word "or," insert the word FOR;
4. On line 15, after the word "tins," delete the word "boxes";
5. On line 16, after the word "packages," delete the word "cartons";
6. On line 17, after the word "unit," delete the words "master cases";
7. On line 18, delete the word "THAT";
8. On the same line, replace the word "contain" with CONTAINING;
9. On line 18a, after the word "companies," insert the phrase CUSTOMARILY OFFERED FOR SALE TO CONSUMERS.

As amended, Section 4 (e) would then read as follows:

E. "TOBACCO PRODUCT PACKAGE" MEANS THE PACKET AND PACKAGE OF TOBACCO PRODUCTS AND ANY OUTSIDE PACKAGING AND LABELLING OF TOBACCO PRODUCTS FOR SALE AND DISTRIBUTION IN THE DOMESTIC MARKET, IMPORTATION, TRADE, EXCHANGE, OR FOR EXHIBITION, SUCH AS, BUT NOT LIMITED TO, PACKS, TINS, POUCHES, FLIP-TOPS, SLIDE AND SHELL

PACKAGES, PACKAGES CONTAINING ONE PRODUCT UNIT, OR OTHER CONTAINERS OF TOBACCO PRODUCTS CONTAINING THE LOGO OR TRADEMARK OF THE TOBACCO COMPANIES CUSTOMARILY OFFERED FOR SALE TO CONSUMERS.

Senator Enrile stated that the reason for the principal requirement to print picture-based health warnings on the packaging materials was to allow the consumers to see them once they buy tobacco products; hence, it is no longer necessary to print them on transparent/clear wrappers, boxes, cartons or master cases since only the distributors and retailers, not the consumers, customarily see them.

Adverting to the proposed amendments on lines 15, 16, 17 and 18a, Senator Cayetano (P) explained that boxes, cartons and master cases are included in the bill because they are customarily used for display within the sites. Although they may not necessarily be the primary mode of display of the tobacco product, she pointed out that there are instances that the boxes could be seen in plain view inside retail establishments. She said that it is very common, in fact, in groceries, even in high-end ones, to see the boxes placed on the floor while merchandise are refilled, so that all the more in *sari-sari* stores considering that their display area is also the storage area.

Senator Cayetano (P) explained that even as the boxes referred to in the provision may not be customarily used in terms of offering the product for sale, they are still customarily seen by the consumers. She said that she made it very clear during the period of interpellations that the youth are the primary target of the proposed bill. She said that there are cases that the cigarette boxes are used as materials for school projects and are therefore seen by the youth, so subsection "e" was worded in such a way that any packaging material that contains the logo or trademark must also carry the corresponding graphic warning.

SUSPENSION OF SESSION

Upon request of Senator Cayetano (P), the session was suspended.

It was 5:31 p.m.

RESUMPTION OF SESSION

At 5:33 p.m., the session was resumed.

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Senator Enrile withdrew his proposed amendments, except the following:

1. On page 3, line 14, between the word "sale" and "distribution," insert the word AND;
2. On the same page and line, replace the word "exportation" with the phrase IN THE DOMESTIC MARKET;
3. On the same page, line 18, replace the words "that contain" with the word CONTAINING.

Accepted by the Sponsor, there being no objection, the Enrile amendments were approved.

As proposed by Senator Enrile and accepted by the Sponsor, there being no objection, the Body approved to change "60%" on line 28 of page 3a and on line 1 of page 4 with 50%.

On page 3a, line 29, after the word "surfaces," Senator Enrile proposed to insert a comma (,) and the words FRONT AND BACK.

Senator Cayetano (P) did not accept the proposed amendment, as she pointed out that the packaging referred to on page 3, items 2 and 3 (lines 5 to 10h) are of different styles and sizes. She explained that item no. 2 would not have a front and back side since the packaging refers to cylindrical and conical containers, while item no. 3 refers to other packaging sizes that do not fall under item nos. 1 and 2 and that also do not have front and back sides.

Senator Enrile withdrew his amendment but he explained that it should be understood that only 50% of the display area of every pack of cigarette, both back and front, would be used by the government for picture-based warning so that the 50% would be used by the manufacturer for his own purpose.

Still on page 4, Senator Enrile proposed to change the word "upper" to LOWER on line 3; and after the word "warnings" on line 6, to add the phrase OR THE LOCATION WHERE THE INTERNAL REVENUE STRIP STAMP IS TO BE AFFIXED AS MAY BE ACQUIRED BY THE BUREAU OF INTERNAL REVENUE (BIR).

SUSPENSION OF SESSION

Upon request of Senator Cayetano (P), the session was suspended.

It was 5:44 p.m.

RESUMPTION OF SESSION

At 5:46 p.m., the session was resumed.

Senator Cayetano (P) said that she was willing to accept the proposed amendment to place the graphic warning at the lower portion of the principal display area provided that the implementing agency can require that the graphic warning be placed in the upper portion if it determines that there are obstructions in the lower portion.

Senator Enrile agreed with the modifications of Senator Cayetano (P).

There being no objection, the Body approved the Enrile amendment, as amended, which shall read as follows:

B. IT SHALL BE LOCATED AT THE LOWER PORTIONS OF THE SAID PANELS OR PRINCIPAL DISPLAY AREAS; *PROVIDED*, THAT IN THE EVENT THAT THE DOH DETERMINES THAT THERE ARE OBSTRUCTIONS IN THE DISPLAY, THE DOH CAN REQUIRE THAT THE PICTURE-BASED WARNINGS MAY BE MOVED TO THE UPPER PORTIONS OF THE SAID PANELS OR PRINCIPAL DISPLAY AREAS WHEN THE NEXT SET OF TEMPLATES IS RELEASED.

As regards the amendment on subsection (e), Senator Enrile said that the authority to come up with the guidelines should not be given to the DOH because it has already been given the power to implement the law. He said that complications would occur if an agency would be made the judge, the prosecutor, and the beneficiary of the fines collected under the law. He suggested instead to give the duty to the Inter-Agency Committee on Tobacco (IAC) of which the DOH is also a member agency. Senator Cayetano (P) replied that government agencies that are tasked to implement laws such as DTL, LTFRB, FDA, MMDA, and DENR, have multiple functions and that it is customary to put such functions under one government agency. She said that she cannot accept the proposal to make the IAC the implementing body because it is actually the regulated body, part of the membership of which is the PTI, adding that the nature of the bill is to implement health

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warnings and the most appropriate agency that would formulate the guidelines would be the DOH and its attached agencies.

Senator Enrile did not insist on his proposed amendment.

Still on page 4, Senator Enrile proposed to replace the word "minimum" on line 12 with MAXIMUM. Senator Cayetano (P) explained that the proviso was a subject of a committee amendment which reduced the resolution from 600 to 300 dpi to ensure that the picture-based warnings are clear.

On line 12, as proposed by Senator Cayetano (P), there being no objection, the Body approved to replace the article "the" with "A" and thereafter delete the word "minimum";

On lines 13 to 20, Senator Enrile proposed to reword subsection (G) to read as follows:

G. [F] A MAXIMUM OF EIGHT (8) VARIATIONS OF PICTURE-BASED HEALTH WARNINGS SHALL BE PRINTED SIMULTANEOUSLY AND THESE SHALL BE ROTATED PERIODICALLY FOR EACH BRAND FAMILY AND ALSO FOR EACH VARIANT, SO THAT AT ANY TIME WITHIN THE TWENTY-FOUR (24)-MONTH PERIOD, WHEN A SET OF PICTURE-BASED HEALTH WARNINGS ARE SCHEDULED TO BE ROTATED, THE VARIATIONS OF THE WARNINGS SHALL APPEAR IN THE MARKET WITH APPROXIMATELY EQUAL FREQUENCY.

Senator Enrile explained that the measure, in effect, confers on the regulatory agency the unlimited discretion to set the number of designs which can be cost-prohibitive on the part of the manufacturers, given that each additional design may require additional changes in the printing, equipment and paraphernalia. Thus, he said that a maximum limit is being proposed to limit the discretion of the regulator.

SUSPENSION OF SESSION

Upon request of Senator Cayetano (P), the session was suspended.

It was 6:02 p.m.

RESUMPTION OF SESSION

At 6:05 p.m., the session was resumed.

Upon resumption, Senator Cayetano (P) presented the Enrile amendment, as amended, to wit:

G. A MAXIMUM OF SIXTEEN (16) VARIATIONS OF PICTURE-BASED HEALTH WARNINGS SHALL BE PRINTED SIMULTANEOUSLY AND THESE SHALL BE ROTATED PERIODICALLY FOR EACH BRAND FAMILY AND ALSO FOR EACH VARIANT, SO THAT AT ANY TIME WITHIN THE TWENTY-FOUR (24) MONTH PERIOD, WHEN A SET OF PICTURE-BASED WARNINGS ARE SCHEDULED TO BE ROTATED, THE VARIATIONS OF THE WARNINGS SHALL APPEAR IN THE MARKET WITH APPROXIMATELY EQUAL FREQUENCY AND EQUAL DISPLAY OF HEALTH WARNINGS AND MESSAGES ON RETAIL PACKAGES.

There being no objection, the Enrile amendment, as amended, was approved by the Body.

On page 4a, Senator Enrile proposed to delete subparagraph (h) on lines 21 to 24. He explained that instead of having a minimum size of the health warning, it would be more reasonable to simply require a certain percentage of the pack to be covered by the health warning to allow the current standard sizes in the market and to no longer impose on the manufacturers or distributors the burden of changing the sizes of tobacco product packages. He assumed that Section 8, as amended by the Committee, already addressed the intended purpose of the subsection.

SUSPENSION OF SESSION

Upon request of Senator Cayetano (P), the session was suspended.

It was 6:08 p.m.

RESUMPTION OF SESSION

At 6:12 p.m., the session was resumed.

Senator Cayetano (P) said that she would accept the amendment if Senator Enrile would assist her during the Bicameral Conference Committee hearing, so that no major changes will occur. She explained that the only reason for specifying the measurement in the bill was to prevent having a smaller display size if the tobacco companies would opt to distribute their products in smaller packaging.

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Senator Enrile acceded to the request of Senator Cayetano (P).

Senator Cayetano (P) also mentioned that Senator Recto had told her that it would be difficult for the companies to sell profitably in a different or smaller type of packaging.

On page 5, as proposed by Senator Enrile and accepted by the Sponsor, there being no objection, the Body approved the following amendments, one after the other:

1. On line 8, replace the word "English" with FILIPINO;
2. On line 9, replace delete the word "Filipino" with ENGLISH;
3. On lines 9 and 10, delete the phrase "and alternately, Filipino on the front panel and English on the back panel"; and
4. On line 12, delete the word "likewise";

Still on page 5, Senator Enrile proposed the following:

1. On line 13, delete the phrase "In addition to the Picture-based Health Warning";
2. On line 14, capitalize letter C on the word "cigarette";
3. On line 16, after the word "Act," replace the words "such as," with the word NAMELY;
4. On line 20, replace the period (.) with a semicolon (;), and thereafter insert the following proviso: PROVIDED, THAT, SUCH ADDITIONAL INFORMATION SHALL NOT OCCUPY MORE THAN 50% OF THE DISPLAY SURFACE OF THE SIDE PANEL.

Senator Cayetano (P) clarified that the side panel requirement for additional health warning is only on one side. She asked if it was the intention of Senator Enrile to use only 50% of one side panel.

SUSPENSION OF SESSION

Upon request of Senator Enrile, the session was suspended.

It was 6:18 p.m.

RESUMPTION OF SESSION

At 6:18 p.m., the session was resumed.

Senator Enrile admitted that he was not aware that it was just one side panel. However, he said that he still would want to deal with it similarly as with the principal display areas so that the government and the property owners will share the same side panel equally. With the further clarification that lines 20a and 20c would be retained, Senator Cayetano (P) accepted the proposed amendment.

Senator Enrile then read the amended Section 6, to wit:

SECTION 6. *SIDE PANEL.* – CIGARETTE PACKAGES, AS WELL AS OTHER TOBACCO PRODUCT PACKAGES FOUND IN THE MARKET, SHALL BEAR, ON ONE SIDE PANEL, ADDITIONAL INFORMATION WHICH SHALL BE ISSUED BY THE DOH TOGETHER WITH THE TEMPLATES IN ACCORDANCE WITH SECTION 15 OF THIS ACT, NAMELY, ADDITIONAL HEALTH WARNINGS, HOTLINES OR WEBSITES FOR TOBACCO-RELATED CONCERNS, OR TIPS ON HOW TO STOP SMOKING. THIS INFORMATION SHALL BE PROMINENTLY DISPLAYED AND THE TEXTS THERETO SHALL APPEAR IN CLEARLY LEGIBLE TYPE AND IN CONTRAST BY TYPOGRAPHY, LAYOUT AND COLOR, WITHOUT THE USE OF ANY BORDER OR FRAME OR ANY OTHER DESIGN THAT WILL EFFECTIVELY LESSEN THE SIZE OF THE ADDITIONAL HEALTH WARNINGS; PROVIDED, THAT, SUCH ADDITIONAL INFORMATION SHALL NOT OCCUPY MORE THAN 50% OF THE DISPLAY SURFACE OF THE SIDE PANEL. THIS IS IN ADDITION TO ANY FISCAL MARKINGS AS MAY BE REQUIRED BY OTHER GOVERNMENT AGENCIES SUCH AS THE BUREAU OF INTERNAL REVENUE.

There being no objection, the Enrile amendment was approved by the Body.

Proceeding to Section 7, Senator Enrile proposed the following:

1. On line 22, delete the word "term";
2. On line 22a, replace the word "descriptor" with DESCRIPTORS, and add OR NUMBERS;
3. On line 23, delete the phrase "trademark, figurative or any other sign";

Thereafter, Senator Enrile read the first paragraph of the amended Section 7, to wit:

SECTION 7. *DESCRIPTORS*. – ONE (1) YEAR AFTER THE ISSUANCE OF THE TEMPLATES BY THE DOH, NO CIGARETTE PACKS OR OTHER TOBACCO PRODUCT PACKAGES SHALL BEAR ANY DESCRIPTORS, OR NUMBERS SUCH AS, BUT NOT LIMITED TO, “LOW TAR,” “LIGHT,” “ULTRA-LIGHT,” OR “MILD,” “EXTRA,” “ULTRA,” AND SIMILAR TERMS IN ANY LANGUAGE THAT CLAIMS OR MISLEADS A CONSUMER TO BELIEVE THAT THE TOBACCO PRODUCT OR VARIANT IS HEALTHIER, SAFER OR LESS HARMFUL.

Senator Enrile explained that certain descriptors and numbers may indeed convey to the public a false impression that certain tobacco products are less harmful. However, he stated that the other items enumerated in the section, particularly trademark, figurative or any other sign such as colors and signages, already cover a much broader characteristic of tobacco products which are otherwise covered by the intellectual property rights of the manufacturers. He cautioned that indiscriminate ban on such rights, such as the use of colors, images or other product designs or features, ultimately translates to a plain packaging regime, which is actually a subject of a pending case before the WTO. He maintained that for the purpose of the measure, it would be sufficient that such descriptors and numbers give the false impression that a certain tobacco product is less harmful than others.

Senator Cayetano (P) agreed to accept the amendment, and clarified that the term “descriptors” is very general and could cover a broad range of images, colors or numbers which would be used by the manufacturers to mislead the public. She said that she would leave to the courts to decide whether the descriptors would form part of the manufacturers’ intellectual property or are covered by their trademark. She reiterated that if the descriptor would be used to mislead the public into thinking that the product is healthier, even if in conjunction with other qualities they are considered as intellectual property, then it may be a subject of concern by the implementing agency later on.

There being no objection, the Enrile amendment was approved by the Body.

Senator Enrile proposed the following amendments on page 6, Section 10:

1. On line 17, delete the word “Manufacturers,” as amended ; and
2. Delete lines 17a to 19d.

Senator Enrile read Section 10, as amended, to wit:

SECTION 10. *PROHIBITION OF SALES*. – NO PERSON OR LEGAL ENTITY SHALL SELL OR COMMERCIALY DISTRIBUTE OR DISPLAY ANY CIGARETTE OR TOBACCO PRODUCT WITHOUT ENSURING THAT THE LABELS AND PACKAGES, AS WELL AS ANY OTHER CONTAINER USED IN DISPLAYING THE CIGARETTE OR TOBACCO PRODUCTS, MEET THE REQUIREMENTS UNDER THIS ACT.

Senator Enrile opined that forcing the manufacturers and distributors to remove or recall non-compliant products within one year from the effectivity of the law would be confiscatory and violative of the constitutional prohibition against *ex post facto* laws. He believed that non-compliant products that are already in the market before the transition date takes effect should continue to be allowed to remain in the market until the supplies are exhausted in the regular course of business.

In response, Senator Cayetano (P) explained that the extension of the implementation period from ninety (90) days to one (1) year for the manufacturers and distributors to come up with the new templates, would effectively give them ample time to exhaust the stocks already in the market.

Senator Enrile did not insist on his proposed amendment.

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

Page 6a

1. On line 28, delete the word “owner;
2. On line 29, between the words “thereof” and “shall,” insert a comma (,) and the phrase OWNER IN THE CASE OF A SOLE PROPRIETORSHIP, AND PARTNERS IN THE CASE OF PARTNERSHIP;
3. On line 30, after the word “accountable,” insert the phrase WHEN SUCH OFFICIALS DIRECTLY PARTICIPATED IN VIOLATING ANY PROVISION OF THIS ACT;

Page 7

4. Delete the word “owner” and the comma (,);

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5. On the same line, after the word "thereof," insert a comma (,) and the phrase OWNER IN THE CASE OF SOLE PROPRIETORSHIP, AND PARTNERS IN THE CASE OF PARTNERSHIP;

Page 7a

6. On line 21, replace the word "forever" with PERMANENTLY;
7. On the same line, replace the word "may" with the phrase FOR VIOLATION OF THIS ACT SHALL;
8. On the same line, after the acronym "DOH," insert the phrase SUBJECT TO THE APPROVAL OF THE SECRETARY OF HEALTH;

At this juncture, Senator Enrile asked on the rationale of the inclusion of the words "or group" at the end of line 23. In response, Senator Cayetano (P) explained that it was included to emphasize that the filing of the case may be done by a private citizen, an NGO or an organized group.

But Senate President Drilon pointed out that the case could be filed by anyone because it is, by nature, a public offense.

DRILON AMENDMENT

On page 7a, lines 21 to 23, as proposed by Senate President Drilon and accepted by the Sponsor, there being no objection, the Body approved the deletion of the following sentence: "Filing of the appropriate case may be commenced by the DOH; the Philippine National Police (PNP); a Prosecutor by himself; or any private citizen or group."

As proposed by Senator Enrile and accepted by the Sponsor, the Body approved the following amendments, one after the other:

ENRILE AMENDMENTS

(Continuation)

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

Page 7a

1. On line 24, after the word "withdrawal," insert the phrase OR IMPORTATION INTO THE PHILIPPINE CUSTOMS TERRITORY;

2. On line 25, delete the phrase "from the manufacturing facility, imported into the Philippines";
3. On line 26, delete the phrase "transferred to other facilities, or delivered to the retail establishments";
4. On line 28, replace the word "Impose" with IMPOSED; and
5. On line 29, delete the phrase "or other appropriate body";

Senator Enrile explained that the amendment would clarify what activity constitutes one count of offense punishable under this Act.

At this point, Senator Enrile asked for clarification about the necessity of the amendment in page 8, lines 12a and 12b when prior amendments have already been made setting the range for the fines that the court may impose. In reply, Senator Cayetano (P) explained that the amendment was solely for the purpose of guiding the court that the economic circumstance of the retail establishment must be considered in the imposition of penalty, using existing laws that govern small and medium scale enterprises as basis.

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

1. On page 8, line 15, replace the word "forever" with PERMANENTLY; and
2. On the same page, lines 15 to 17, delete the last sentence which reads: "Filing of the appropriate case may be commenced by the DOH, the Philippine National Police (PNP); a Prosecutor by himself; or any private citizen or group."

Still on page 8, line 19, between the words "retailers" and "after," Senator Enrile proposed to insert the words ONE YEAR. Senator Cayetano (P) did not accept the amendment, explaining that the proposal to provide additional exhaustion period has previously been turned down.

CAYETANO (P) AMENDMENTS

As proposed by Senator Cayetano (P), there being no objection, the Body approved the corrections of the following typographical errors on page 8:

1. On line 1, after the word "apply," insert the



word TO, and replace the word "etailers" with RETAILERS;

2. On line 19, after the word "after," replace the word "pliance" with COMPLIANCE;

ENRILE AMENDMENTS

On page 8a, Senator Enrile proposed the following:

1. On line 23, replace the word and figure "(30)," with NINETY (90); and
2. On line 29, between the words "of" and "leading," insert the phrase THE MANUFACTURERS, AND IMPORTERS OF CIGARETTE AND TOBACCO PRODUCTS AS WELL AS;

SUSPENSION OF SESSION

Upon request of Senator Cayetano (P), the session was suspended.

It was 6:50 p.m.

RESUMPTION OF SESSION

At 6:50 p.m., the session was resumed.

Senator Cayetano (P) stated that since a number of templates were added, the DOH should be given more time; and as regards recommendations, she said that at the end of the day, it still depends on the decision of the DOH.

Senator Enrile proposed the following amendments on page 9:

1. Delete lines 7 to 10;
2. Reinstate lines 11 to 12, to wit: "Tobacco manufacturers and importers shall have no more than two (2) months to comply with any new templates issued"; and
3. On line 11, replace the word and number "two (2) months" with EIGHT (8) MONTHS.

Senator Cayetano (P) said that in the committee amendments, the period of compliance was already increased to one (1) year and since it is already contained in another provision, lines 11 and 12 may remain deleted.

On page 9a, Senator Enrile proposed the following amendments:

1. On Section B, line 17p, after the word "which," delete the words "WILL BE" and the rest of the line, and in lieu thereof, insert the phrase SHALL ACCRUE TO THE NATIONAL TREASURY;
2. On line 17q, delete the phrase "CAMPAIGNS ON TOBACCO CONTROL OF THE DOH."

Senator Enrile said that the proposed amendment seeks to preserve the partiality and objectivity of the DOH as the implementor of the law because to vest the said agency with the authority to simultaneously act as administrative adjudicator and beneficiary is not consistent with due process.

Senator Cayetano (P) replied that while she understands Senator Enrile's concern, she has encountered, while chairperson of the Committee on Health and Demography, and now its vice-chair, that after passing the budget, there was very little fund left for health promotion. She said that she wanted to ensure that the funds would be retained by DOH for health promotion purposes because once the fund goes back to the National Treasury, it might not be allocated back.

At this point, Senator Enrile suggested to state in the law, subject to style, that the collection of funds would go to the National Treasury but would be returned back to DOH through the budget so the legislators could scrutinize its usage.

Senator Cayetano (P) said that her concern was just practical, having experienced that while chairperson of the Committee on Environment and Natural Resources, it took so long for the FDA and BFAD to obtain their funds from DOH such that the said agencies would continuously ask her to intervene in securing their budget.

Senator Enrile withdrew his proposed amendment.

Still on page 9a, as proposed by Senator Enrile and accepted by the Sponsor, the Body approved the following amendments, one after the other:

1. On line 17gg, after the word "NECESSARY," replace the words "LOCAL GOVERNMENT" with the phrase LAW ENFORCEMENT AGENCIES;
2. Delete lines 17 to 17hh and 17ii; and
3. On line 17jj, delete the words "CONCERNED SECTORS";

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Senator Enrile stated that the reason was to limit the deputized entities only to law enforcement agencies since they are equipped with the knowledge and experience to lawfully execute the powers granted by law.

On page 11, Senator Enrile proposed the following amendments:

1. On lines 7 to 9, replace the title of Section 18 "Citizen Suits" with ENFORCEMENT PROVISIONS;
2. On line 8, after the word "regulations," insert the phrase CIVIL, CRIMINAL AND ADMINISTRATIVE PROCEEDINGS UNDER THIS ACT SHALL BE COMMENCED IN BEHALF OF THE PHILIPPINE GOVERNMENT, SUBJECT TO THE APPROVAL OF THE SECRETARY OF HEALTH; and thereafter, delete the rest of line 8;
3. Delete line 9 except the word "against";

Senator Enrile explained that the reason was to be consistent with Section 14 for the purpose of an ordinary implementation of the law, since the amendment seeks to clarify that any action brought under the Act should be brought in the name of the government of the Philippines, subject to the approval of the Secretary of Health.

SUSPENSION OF SESSION

Upon motion of Senator Enrile, the session was suspended.

It was 7:00 p.m.

RESUMPTION OF SESSION

At 7:01 p.m., the session was resumed.

Upon resumption, Senator Cayetano (P) stated that the intention of a citizen suit was to allow any citizen to file for an action; and with the proposed deletion, the NGO or a private individual would now be required to file the complaint with the DOH Secretary. She pointed out that unlike in the other provisions which no longer specify who may file because the DOH may act *motu proprio*, the proposal would disempower and prevent the citizens from taking action on their own.

Senator Enrile posited that any citizen or NGO can write a complaint to the DOH Secretary who

would approve the filing of a formal civil, criminal or administrative complaint against the erring manufacturer or importer; otherwise, any person may just file harassment suits against the manufacturer, which is what he wants to avoid.

Thereupon, Senator Cayetano (P) suggested that the entire Section 18 be deleted since a citizen suit is recognized under existing jurisprudence.

There being no objection, the deletion of Section 18 was approved by the Body.

CLEAN COPY

At this juncture, Senate President Drilon instructed the Senate Secretary to produce a clean copy of the bill containing Senator Enrile's amendments as approved by the Body.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 27

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

COMMITTEE REPORT NO. 29 ON SENATE BILL NO. 2226 (Continuation)

Upon motion of Senator Cayetano (A), there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 2226 (Committee Report No. 29), entitled

AN ACT PROTECTING THE AMATEUR NATURE OF STUDENT-ATHLETES IN THE PHILIPPINES BY REGULATING THE RESIDENCY REQUIREMENT AND PROHIBITING THE COMMERCIALIZATION OF STUDENT-ATHLETES.

Senator Cayetano (A) stated that the parliamentary status was the period of committee amendments.

COMMITTEE AMENDMENTS

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

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Page 1

1. On lines 3 and 4, delete the entire Section 2 and renumber the succeeding sections and subsections accordingly;

Page 3

2. On lines 8 to 13, delete the entire Section 5 and renumber the succeeding sections accordingly;
3. On the same page, line 21, after the word "Tuition," delete the phrase "board, and lodging" and insert the phrase MISCELLANEOUS SCHOOL FEES, BOOKS AND OTHER LEARNING MATERIALS;
4. On line 22, insert a new subsection (b) which will read as follows: B. BOARD AND LODGING, and re-letter the succeeding subsections accordingly;

Page 4

5. On line 4, after the word "Other," insert the words REASONABLE AND;
6. Still on the same line, replace the words "and incentives" with THAT WOULD FURTHER ENHANCE THE STUDENT-ATHLETES' ACADEMIC AND ATHLETIC PERFORMANCE;
7. On line 7, after the word "Section," replace the numbers "7" with 5;
8. On line 15, after the word "schools," insert the phrase OR THEIR ALUMNI;
9. Still on the same line, after the phrase "or any person," delete the word "who";
10. On lines 15 and 16, after the phrase "or any entity," delete the word "which" and insert the phrase IN BEHALF OF A STUDENT-ATHLETE WHO OR A SCHOOL WHICH;
11. On line 23, after the acronym "PSC," insert the phrase TOGETHER WITH THE;
12. On the same line, delete the comma (,) after the word "DepEd" and insert the word AND;
13. On lines 23 and 24, delete the phrase "as well as representatives from the athletic associations," and insert the phrase AFTER CONSULTATION WITH RELEVANT STAKEHOLDERS;

Page 5

14. On line 1, replace the word and figure "thirty (30)" with SIXTY (60);
15. On line 4, insert a new section to read as follows:

IMPLEMENTING AGENCIES. – THE PSC AS THE LEAD AGENCY, TOGETHER WITH DEPED AND CHED, SHALL IMPLEMENT THE PROVISIONS OF THIS ACT;

16. Renumber the succeeding sections accordingly.

TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS

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

TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

There being no individual amendment, upon motion of Senator Cayetano (A), there being no objection, the Body closed the period of individual amendments.

APPROVAL OF SENATE BILL NO. 2226 ON SECOND READING

Submitted to a vote, there being no objection, the Chair declared Senate Bill No. 2226 approved on Second Reading.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2226

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

ADJOURNMENT OF SESSION

Upon motion of Senator Cayetano (A), there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of Monday, June 2, 2014.

It was 7:12 p.m.

I hereby certify to the correctness of the foregoing.

OSCAR G. YABES
Secretary of the Senate
[Signature]

Approved on June 2, 2014