



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal 1

SESSION NO. 20
Tuesday, September 13, 2016

**SEVENTEENTH CONGRESS
FIRST REGULAR SESSION**

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CALL TO ORDER

At 3:13 p.m., the Senate President, Hon. Aquilino "Koko" Pimentel III, called the session to order.

PRAYER

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

Heavenly Father, we humbly come before You with grateful hearts. We praise You and give You glory for the wonderful things You blessed us and our country with.

We pray for Your continuous guidance and protection to shield us from the evils of today. May You provide us with wisdom and fortitude that we may overcome the difficulties that lie ahead.

We pray in Jesus' Name.

Amen.

ROLL CALL

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

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

With 21 senators present, the Chair declared the presence of a quorum.

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Senator Gordon arrived after the roll call.

Senator Cayetano was on official business as indicated in the September 13, 2016 letter of the Senator's chief of staff.

Senator Villar was on official mission abroad as per approved Travel Order dated August 8, 2016.

APPROVAL OF THE JOURNAL

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 19 (September 7, 2016) and considered it approved.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

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

- Thirty-three law students from the Pamantasan ng Lungsod ng Maynila led by class president Mr. John Ericson Millar Alo;
- Mayor Grande Gutierrez of Taysan, Batangas, together with his councilors;
- Mayor Rowena Codilla of Kananga, Leyte;
- Barangay officials of Palangan, Puerto Galera, Oriental Mindoro, headed by Barangay Captain Estrellita Dolor; and
- Members of the Philippine team who won medals in the 57th International Mathematical Olympiad.

Senate President Pimentel welcomed the guests to the Senate.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following bill which the Chair referred to the committees hereunder indicated:

BILL ON FIRST READING

Senate Bill No. 1129, entitled

AN ACT MANDATING A TWO THOUSAND PESO (P2,000) ACROSS-THE-BOARD INCREASE IN THE MONTHLY

PENSIONS WITH CORRESPONDING ADJUSTMENT OF THE MINIMUM MONTHLY PENSION UNDER THE SOCIAL SECURITY SYSTEM, AMENDING FOR THE PURPOSE SECTION 12 OF REPUBLIC ACT NO. 1161, AS AMENDED, OTHERWISE KNOWN AS THE SOCIAL SECURITY ACT OF 1997

Introduced by Senator Zubiri

To the Committees on Government Corporations and Public Enterprises; and Labor, Employment and Human Resources Development

SUSPENSION OF THE REFERENCE OF BUSINESS

Upon motion of Senator Sotto, there being no objection, the Body approved the suspension of the Reference of Business.

APPROVAL OF SENATE BILL NO. 1112 ON THIRD READING

Upon motion of Senator Sotto, there being no objection, the Body considered, on Third Reading, Senate Bill No. 1112, printed copies of which were distributed to the senators on September 7, 2016.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, upon motion of Senator Sotto, there being no objection, Secretary Barbo read only the title of the bill, to wit:

AN ACT POSTPONING THE OCTOBER 2016 BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9164, AS AMENDED BY REPUBLIC ACT NO. 9340 AND REPUBLIC ACT NO. 10656, PRESCRIBING ADDITIONAL RULES GOVERNING THE CONDUCT OF BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS AND FOR OTHER PURPOSES.

Secretary Barbo called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Angara	Hontiveros
Aquino	Lacson
Binay	Legarda
De Lima	Pacquiao
Drilon	Pangilinan
Ejercito	Pimentel
Escudero	Poe
Gatchalian	Sotto
Gordon	Villanueva
Honasan	Zubiri

Against

Recto
Trillanes

Abstention

None

With 20 senators voting in favor, two against, and no abstention, the Chair declared Senate Bill No. 1112 approved on Third Reading.

EXPLANATIONS OF VOTE

By Senator Recto

Senator Recto explained his negative vote, to wit:

Elective officials in this land—from the president down to the barangay captain—have the same employment status: they are casuals elected to fixed terms.

They are hired or fired through the same process — via the ballot, with their employers, otherwise known as the electorate, each deciding whether to extend or “*endo*” their job contracts.

Elections in this land are triennial summer job fairs, with the candidates strutting their stuff all over, or stuffing money anywhere, in a bid to convince their bosses to renew their employment.

The reason why elective positions have expiry dates is one of democracy’s greatest virtues.

By subjecting the performance of officials to periodic review, the people retain the right to replace those who have not been true to their oath, or have turned their backs on them.

But for those who have served them well, elections affirm their good work, for nothing validates hard and honest labor than a fresh mandate.

And nothing inspires good performance more than the threat of being terminated. This fear of feeling the end of the boot is what keeps us casuals always on our toes.

It is because of this principle—that only the people can directly extend the tenure of elective public officials—that I cannot agree to the proposal to postpone the barangay elections.

If this was about extending the terms of mayors or governors by one year, there would have been widespread uproar by now.

If this bill was about our terms, there would have been an uprising, with waves and waves of protestors laying siege to this building like those swarms in *Train to Busan*.

Pero dahil barangay lang ang apektado, parang ang attitude ay “carry lang.”

But barangays are not the far outposts of government; they are the first line of public service.

They are the sovereigns’ first contact with government, not the last.

When fisticuffs break out over videoke noise, they do not call the police or tell it to the Marines; they call the barangay.

Domestic disputes are not immediately sent up to our clogged courts; they are first arbitrated at the barrio hall.

Sick people do not have senators or congressmen on their speed dial. Their first, and for many, the only option is the barangay *kapitan*.

He is the first to rush to where flames are, whether from a house burning, or from candles on a cake of a senior citizen.

For many of our people, senators could be distant creatures living in a galaxy far, far away. But barangay officials for them are not unreachable stars.

So it should not surprise us if they want to have a say on the fate of the terms of office of officials they are closest to, a job which should not be done for them, and usurped, by creatures living in a galaxy, far, far away.

Many reasons have been advanced on why we have to postpone barangay polls.

I put them into four clusters, which I call the four Fs: funding, fatigue, fighting the drug wars,

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and the freeze on public works and government hiring.

First is funding.

Makakaipid daw? Pero paano? The math here is that by putting off the elections for a year, we are only putting aside funds budgeted for the elections for a year.

We can only save money if we are permanently cancelling the polls. But we are only postponing it.

In budget-speak, savings accrue from a terminated project, not from a deferred one. So instead of spending at least P7 billion if we will hold the elections this year, we will only delay spending it by a year, so in the end, we will still have to spend that P7 billion.

In fact, on the contrary, we will be spending more. Some preparatory activities the Comelec had done will be repeated. For one, the new round of voter's registration will have to be conducted.

Another familiar refrain we are hearing is "election fatigue."

That could be the case if barangay elections are 90-day marathons like the campaign period for the presidency. But the one for the barangay is a short 10-day sprint.

In 2007, we held national and local elections in May, the last time manual counting was done, and then a barangay election later in the year. We also conducted both in 2010 and 2013, but the issue of election fatigue never cropped up.

Why? Because unlike a presidential election, which can be a weapon of mass distraction in a nation where our energy is momentarily dissipated by antics of those applying to solve our problems instead of using it to solve them, barangay polls are small blips in the radar.

There are no trolls who will anger us, no social media bashing that will bruise us, no expensive TV ads that will interrupt our telenovela watching.

The third pretext is that a barangay election would distract the government from pursuing its Great War on Illegal Drugs.

But the effect of the postponement is that barangay officials who coddle or are in cahoots with drug lords are gifted with another year in office.

Those who are barangay captains and drug captains at the same time will have a one year

free pass, not courtesy of the people but of their fellow politicians.

Postponement will rob barangay residents of the chance to boot out barangay officials who moonlight as drug traders or whose feeble leadership allowed the proliferation of narcotics in their areas.

Do not get me wrong. *Mas maraming barangay leaders pa rin ang matitino. Di hamak na mas marami ang nagseserbisyo. Mas marami ang nagsasakripisyos. Mas marami ang naglilingkod ng todo-todo.*

Pero marami ring dapat nang palitan.

PDEA has tagged 13,661 out of the 42,036 barangays in the country as drug-affected. In Metro Manila, the prevalence rate is higher, with 92% of 1,706 barangays penetrated by drug lords according to PDEA.

This high rate of drug infiltration in our barangays can only be used as an argument for—and not against—the scheduled holding of elections next month.

For barangay leaders who put their lives on the line in battling drug trade where they live, a fresh mandate from grateful residents not only recognizes their work but renews their license to wage the war.

But for barangay leaders who have long dipped their fingers into the dirty jar of *shabu* sales, the election provides the people they have betrayed to "endo" them.

It is the only way they can liberate themselves from drug lords and barangay officials who have conspired in a lucrative Occupy the Barangay project.

By scrapping the polls, we are in effect telling people in the throes of their self-deliverance that "Change is postponed."

Concerns have also been raised that pushing through with the October elections will pull back PNP personnel from the frontlines of the drug war.

But is it not true that deploying policemen to barangays during the campaign period would, in fact, heighten security in barangays and provide them with the opportunity to conduct *Oplan Tokhang* in places where they will be embedded?

The last of the alibis is that the barangay elections would freeze public works construction as well as the hiring and deployment of government personnel.

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But is it not true that whether there are elections or not, projects are delayed? That funds are not released? That allotments are not obligated? That personnel positions are not filled?

This fiscal scourge is called underspending, and the good budget secretary had pegged at about P1 trillion the total amount of appropriations that was not released on time or was not released at all over the past six years.

Last year, for example, P52.22 billion in DepEd allotment was not obligated, P35.01 billion in DOTC allotment was not obligated, P8.96 billion in DA allotment was not obligated, and P106.36 billion in DPWH was not obligated.

For every peso given to it, DOTC managed to obligate only 56 centavos within the fiscal year. On the part of the DPWH, 24 centavos for every budget peso was unobligated within the same period.

In the case of DepED, P1.4 billion out of the P2.4 billion budget for meals for malnourished children was downloaded to the regions only at the tail-end of the year, so instead of DepEd cafeterias bragging about millions served, their slogan should be millions deprived.

So let me ask this: Was an election ever a culprit for underspending? Never.

The previous Senate had spent days probing the issue and poring over hundreds of documents and never was an election or even a barangay plebiscite cited as a reason for the slow use of funds.

So it is time to retire it as bogey for low fund absorption.

The problem lies not in elections. It lies in the incompetence of unelected and unelectable bureaucrats.

The same could be said with the hiring of government employees, and for the same reasons that elections should be absolved of the unfair charge that they cause delay in personnel appointment.

Yearly without fail, we allocate funds to hire more teachers. And yearly without miss, DepEd would fail to hire a single teacher before the June class opening using funds for teacher recruitment for that year.

Were these delays due to elections? My dear colleagues, the answer is no.

Hindi rin po totoo ang chismis na isang buwan ang haba ng public works ban tuwing may halalan para sa mga opisyales ng barangay at SK.

Ayon sa Republic Act No. 6679, sampung araw bago mag-barangay elections lamang suspendido ang construction. Inuulit ko po: sampung araw o siyam na tulog lang. At hindi sakop lahat ng infrastructure projects. Yun lamang pong provincial, city, municipal and barangay roads and bridges.

Hindi kasama ang flyovers, hindi kasama ang airports.

And on this point, I would like to thank Senator Sonny for accepting my amendments that the ban be limited to barangay-funded roads and bridges, and that the personnel hiring and promotion ban, except for barangay-funded positions and job orders, be lifted.

That would have sufficed for me to be a postponement convert but I think, despite Senator Sonny's equally brilliant defense of this bill, I would have to vote on the fundamental principle that we should not tinker with expiry dates of elective offices.

Lastly, so that routinely postponing barangay elections does not become a bad national habit, may I suggest that a real, thorough, comprehensive Barangay Reform Act be pursued.

And there is no better Senate to do it than the one led by the son of the father of the Local Government Code.

Let us go for durable cures, for the real strengthening of our barangays, not band-aid solutions.

I vote "yes" to barangay reforms but "no" to this measure.

By Senator Hontiveros

In explaining her "yes" vote to Senate Bill No. 1112, Senator Hontiveros disclosed that after consultations with all the stakeholders such as the Comelec, DILG, AFP, PNP and the League of Barangays, she joined in the calls to defer the barangay elections for not more than one year to provide the barangay leaders ample time to fully accomplish the programs in their communities and prepare for the nationwide elections.

However, in the SK polls, she stated that she supports the calls of different youth groups to proceed with the scheduled elections because it has already been postponed thrice, resulting in the youth's political disenfranchisement from local governance. She explained that postponing the SK elections again

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might send a wrong signal that the government is not committed to include the youth in its governance affairs.

Senator Hontiveros said that inasmuch as Senate Bill No. 1041 combines the barangay and SK elections postponement in one bill, she was constrained to vote in favor of the bill with the reservations she cited earlier which she wished to be included in the record.

PROPOSED SENATE RESOLUTION NO. 132

Upon motion of Senator Sotto, there being no objection, the Body considered Proposed Senate Resolution No. 132, entitled

A RESOLUTION CONGRATULATING AND COMMENDING THE PHILIPPINE TEAM FOR GARNERING FOUR MEDALS AND TWO HONOURABLE MENTIONS IN THE 57TH INTERNATIONAL MATHEMATICAL OLYMPIAD HELD LAST JULY 6-16, 2016 IN HONG KONG.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

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

- Members of the Philippine Team who won medals in the 57th International Mathematical Olympiad — Kyle Patrick Dulay; Albert John Patupat; Shaquille Wyan Que; Vince Jan Torres; Clyde Wesley Ang; Farrel Eldrian Wu;
- Coaches of the Philippine Team — Dr. Richard Eden and Dr. Louie John Vallejo; and
- President of Math Society of the Philippines, Dr. Marian Roque.

Senate President Pimentel welcomed the guests to the Senate.

Thereafter, the Chair recognized Senator Aquino to sponsor Proposed Senate Resolution No. 132.

SPONSORSHIP SPEECH OF SENATOR AQUINO

Senator Aquino stated that it was a distinct honor for him to address the Body to commend some of the brightest minds in the country with a resolution congratulating and commanding the Philippine Team for garnering four medals and two honourable mentions in the 57th International Mathematical Olympiad held last July 6-16, 2016 in Hong Kong or Proposed Senate Resolution No. 132.

The full text of his sponsorship speech follows:

The International Mathematical Olympiad is considered one of the most rigorous and prestigious annual math competitions in the world.

This year, the Philippine contingent cumulatively ranked 17th out of the 109 countries who participated in the event. Our representatives also brought home two gold medals and two silver medals.

As the chairman of the Senate Committee on Education, Arts and Culture, as well as chairman of the Senate Committee on Science and Technology, I am very proud to present to you these young Filipinos who have brought pride to our country.

We ask that they all rise, together with their parents and their coaches, to be acknowledged.

Honorable mentions were given to Shaquille Wyan T. Que of Grace Christian College, and Vince Jan F. Torres of Santa Rosa Science and Technology High School;

Silver medals were given to Clyde Wesley S. Ang of Chiang Kai Shek College and Albert John L. Patupat of De La Salle University Integrated School;

Gold medalists were Farrel Eldrian S. Wu of Makati Gospel New Life Christian Academy and Kyle Patrick F. Dulay of the Philippine Science High School-Diliman.

Leading the team were Richard Eden of the Ateneo de Manila University, Mathematics Department and his deputy, Louie John Vallejo of the University of the Philippines Diliman, Institute of Mathematics.

Our warmest congratulations for bringing pride to the country during the recently concluded 2016 International Mathematics Olympiad!

And so, breaking the tradition of honoring athletes and beauty queens, we honor a different set of honorees and these are, of course, mathletes or our Math Olympiad competitors.

It is my honor to sponsor this resolution honoring these young Filipinos. *Maraming salamat!*

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 132

Upon motion of Senator Sotto, there being no objection, the Body adopted Proposed Senate Resolution No. 132, subject to style.

PROPOSED SENATE RESOLUTION NO. 135

Upon motion of Senator Sotto, there being no objection, the Body considered Proposed Senate Resolution No. 135, entitled

A RESOLUTION COMMENDING AND CONGRATULATING JOSEPHINE MEDINA FOR WINNING A BRONZE MEDAL FOR THE PHILIPPINES IN THE 2016 RIO PARALYMPICS,

taking into consideration Proposed Senate Resolution No. 138.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Pacquiao to sponsor the measure.

SPONSORSHIP SPEECH OF SENATOR PACQUIAO

Senator Pacquiao stated that it was with great pride and joy to inform the Body that the country has once again dominated the international sporting arena, thus he filed two resolutions: the first of which is Proposed Senate Resolution No. 135 – Commending and Congratulating Josephine Medina for Winning a Bronze Medal for the Philippines in the 2016 Rio Paralympics.

The full text of his sponsorship speech follows:

Josephine Medina, the Philippines' flag-bearer, bagged the bronze medal in table tennis

Women's Singles Class 8 at the 2016 Paralympics in Rio de Janeiro in Brazil on September 13, 2016.

Medina won against Germany's Julianne Wolfe to secure a podium finish, 11-5, 11-6, and 11-7. This win ended the country's wait for a medal at the Paralympics. This is the first time the country is bringing home such prestigious award since 2000.

Medina, a polio victim, stands as an inspiration to millions of Filipinos to never let their personal battles get in the way of being triumphant over adversities.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 135

Upon motion of Senator Sotto, there being no objection, the Body adopted Proposed Senate Resolution No. 135, taking into consideration Proposed Senate Resolution No. 138, subject to style.

PROPOSED SENATE RESOLUTION NO. 137

Upon motion of Senator Sotto, there being no objection, the Body considered Proposed Senate Resolution No. 137, entitled

A RESOLUTION COMMENDING AND CONGRATULATING THE PHILIPPINE NATIONAL DRAGON BOAT TEAM FOR ITS EXEMPLARY PERFORMANCE AT THE ICF DRAGON BOAT WORLD CHAMPIONSHIPS IN MOSCOW, RUSSIA.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

The Chair recognized Senator Pacquiao to sponsor the measure.

SPONSORSHIP SPEECH OF SENATOR PACQUIAO

Senator Pacquiao presented to the Body the second resolution he filed — Proposed Senate Resolution No. 137, Commending and Congratulating the Philippine Dragon Boat Team for its Exemplary Performance at the ICF Dragon Boat World Championships in Moscow, Russia.

The full text of his sponsorship speech follows:

The Philippine Dragon Boat Team delegation bagged three gold, a silver and two bronze medals from the International Canoe Federation Dragon Boat World Championships at the Regatta Course Krylatskoe in Moscow, Russia.

The national team won in the 20-seater senior mixed 500-meter event, 10-seater junior mixed 200-meter event and the 20-seater senior mixed 200-meter event.

The Filipino paddlers displayed great team work, proving that cooperation coupled with discipline and persistence can enable the team to prevail over powerhouses in the Dragon Boat Racing Circuit.

To our world class athletes, congratulations and thank you for bringing honor and glory to our country.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 137

Upon motion of Senator Sotto, there being no objection, the Body adopted Proposed Senate Resolution No. 137, subject to style.

SUSPENSION OF SESSION

Upon motion of Senator Sotto, there being no objection, the session was suspended for a photo opportunity with the awardees.

It was 3:47 p.m.

RESUMPTION OF SESSION

At 3:56 p.m., the session was resumed.

PRIVILEGE SPEECH OF SENATOR GORDON

Availing himself of the privilege hour, Senator Gordon spoke on the major issues the country was currently facing and which the President was trying to solve by himself.

Senator Gordon averred that the President has his hands full with problems on drugs, the country's alliance with the United States of America, territorial problems with China, the conviction of Mary Jane Veloso in Indonesia, the country's relationship with the ASEAN, and the perception of the international

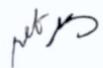
community towards the Philippines which adversely impacts the investments in the country, employment of seamen, exports of tuna and sardine products, and its competitiveness with its Asian neighbors for tourism.

He stated that Congress should help the President solve the problems plaguing the country instead of debating on issues to win it; instead of debating, Members of Congress should face the reality that it should work to find solutions to the problems and make the people win, uplift their human dignity and alleviate their human suffering. He then presented the current situation on drugs and terrorism in connection with the recent declaration of state of lawlessness by the President.

Senator Gordon stressed that the people have to be aware of the problems plaguing the country like drugs, terrorism, riding in tandem and vigilante killings, they cannot always be watchers and say, "It is none of my business," so common an attitude that it came as a surprise that 700,000 drug users and pushers have surrendered and many people have been killed.

He clarified though that he was not speaking on behalf of the President, that what he was doing is sincerely for the country. He recalled that before the elections, Mayor Duterte candidly declared that if he wins, it will be very bloody because many drug pushers and users will be killed, he did not hide his disgust over the drug menace because he knew that people were sick and tired of it. He lamented that despite the efforts of Senator Sotto and other Members of Congress to curb the problem, drug-related crimes have become chronic. He supposed that President Duterte's "damn the torpedoes down the throat" approach and straight-forward thinking is the reason why he won by six million votes over his closest rival and earned a 91% trust approval rating for August.

At this juncture, Senator Gordon brought the attention of the Body to the fact that many people are trying to separate themselves from the situation on drugs. He stated that even before President Duterte's proclamation, a lot of drug users and pushers were being killed by riding in tandem, many pushers and users were eliminated when, unprecedently, President Duterte exposed the names of several generals who were linked to drugs. He noted that the killings increased because police protectors are separating themselves from the pushers.



He stated that another possibility was that the drug lords are separating themselves from their pushers because those who will be captured could lead to and even testify against the drug lords.

He recalled that during the hearings, when asked where the drugs were coming from, General de la Rosa replied that most of the drugs were coming from China, a revelation that prompted him to write the DFA inquiring about it, in response to which Secretary Yasay sent a letter right away to China. He believed that the government got China's attention because no country would want to be accused of sending drugs to another country. He said that it is important that the people know where the Senate stands.

As to the President's statement that those who are found to be pushing drugs should be killed, Senator Gordon opined that even without President Duterte's declaration, it is a tacit order that the police would eliminate drug pushers when the situation calls for it. But in instances when human rights are violated, the Senate will rightfully fight for it as it is part of their oath to promote justice and equality for all, he said.

Senator Gordon also recalled that after his inauguration, President Duterte reiterated his warning to drug users and pushers to stop and surrender to the authorities; otherwise, they will be exposed. He averred that since July 1, an unprecedented record of almost 3,000 drug pushers and users have been killed, 700,000 have surrendered, of which 52,000 were drug pushers. He also pointed out that drug users and pushers, fearing for their lives, have come out from hiding. He supposed that the PNP are killing their snitches while drug lords are killing their own people. He said that because of the killings, people became aware of how huge the drug problem is. He added that if people were just shouting their hate for crime before, they are now moving and fighting crime. However, he said that the President's orders could also bounce back at him when it involves human rights and that it is always right to stand against human rights violation because human rights are important in a democracy.

Adverting to the drug situation prevailing in the country, he informed the Body that the Dangerous Drugs Board and the PDEA have recorded that 3.7 million Filipinos are infected by drugs, of which one million are youth, a lot of whom could make the country strong if they were educated. But if the

youth would turn to drugs, they will destroy their future and the country, he said.

Referring to the identified drug lords, Senator Gordon cited Jeffrey "Jaguar" Diaz, Central Visayas drug lord who was killed last June 17, 2016; Melvin "Dragon" Odicla and his wife who were killed on August 29, 2016; Peter Lim who was able to fly to China and back to the Philippines; Peter "Wu Tuan" Co, drug lord and mastermind inside the New Bilibid Prison; Herbert "Ampang" Colangko, inmate at the NBP, who enjoys VIP treatment complete with band and jacuzzi, and who was found with a huge amount of money and a cache of guns hidden in his cell.

Senator Gordon also mentioned General dela Rosa's statement that there was a shabu laboratory found inside the NBP, adding that he has proof that drug lords not only could get out of jail but could also kill their targets outside the NBP.

He recalled that during his first term as a senator, Atty. Nena Rosales paid him a visit to inform him about the death of her husband Judge Rosales who was killed by motorcycle-riding gunmen in Tanauan, Batangas. He said that in his privilege speech then, he exposed that the murder of Judge Rosales may have been the handiwork of those he convicted. He stated that in April 2016, the lawyer of a drug lord was killed on suspicion that he might have pocketed the P10 million that was supposed to pay off a judge which the latter did not accept. He informed the Body of the attempted assassination of Justice Brion. He noted that the drug lords behind bars have become so brazen, and he suspected that VIP treatment in the NBP had the approval of former prison officials. He added that no prison official was ever investigated in the Senate.

On other *shabu* laboratories, Senator Gordon stated that Chinese laboratories are still operating within the country. He disclosed that a *shabu* laboratory run by Chinese nationals was discovered under a piggery farm in Angeles City; another *shabu* laboratory was discovered in Valenzuela City; three weeks prior to that, an explosion happened at the Parañaque City Jail; and a floating *shabu* laboratory was intercepted at Subic Bay. He said that in the Subic Bay raid, six were convicted for drug pushing.

Senator Gordon pointed out that the proliferation of drugs and those who can be bribed, from the prison officials to local officials, have been unmasked

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by the President, although to some, the unmasking of these officials has been branded as extra-judicial killing of reputations. He also lamented that involved public officials are not affected by libel, but still he pointed out that fear has been instilled in them because they are expected to face the charges against them.

As regards killings, he reported that according to police reports most of these killings were made by vigilantes while some cases were due to encounters. He said that under RA 8551, the PNP Internal Affairs Service should automatically investigate such incidents involving its personnel but regrettably, he said, these investigations have been slow.

Citing media reports, Senator Gordon stated that a woman identified as the sister of actress Maritoni Fernandez was found murdered, and that a sign tagging her as a pusher of celebrities was found on the scene; in another report, a woman was photographed cradling her murdered husband who was tagged as a pusher and like Mary holding Jesus, the picture seemed heart-breaking to some, but more heart-breaking was that the evil that destroyed families caused by peddling drugs was not portrayed in that picture. He said that indeed the country is now in conflict.

He then enumerated several drug-related crimes – a shootout in Zambales that resulted in the death of three children; in Baguio City Franklin Bambico was with his pregnant wife when he was shot as he was about to ride his car; in Dumaguete, a known pusher tried to hide his child when motorcycle-riding men strafed them with bullets killing both the father and child.

He then asked the Body if the country has gone “down Mexico way.” He stated that Mexico, which used to be the Philippines’ partner in the galleon trade, is known as a drug-infested country that lost its handle on drugs. He said that the story of El Chapo was very famous – with prison officials in his payroll, he was able to build an underground tunnel which he used to escape.

Senator Gordon also cited the famous TV series “Narcos” which showed how drug pusher Pablo Escobar controlled Colombia to become one of the richest men in the world, who was only stopped when he was jailed and his money in the banks and his properties were all confiscated. He stated that

there are indeed people who foul the law and find ways and means to perpetrate their evil upon the people. He said that the United States of America has become the biggest market for drugs that in 1971, President Nixon declared a war against drugs and the U.S. spent \$51 billion a year.

However, he noted that the results of the drug campaign were similar, be it in Colombia, America, Mexico or the Philippines, — the jails were overloaded. He said that the impact of the drug problem was so big that it embraced corruption, narco-politics, and international drug trafficking, and that even the NPA are reportedly engaged in drug pushing because it was lucrative business. He said that he was alarmed with the spate of killings and the number of drug users and pushers in the country. He feared that the country might go to the direction that Colombia experienced unless the momentum would be stopped by recognizing the three major drug problems: that the youths were affected, that 2.7 million adults have surrendered but the government does not know how to deal with them because of lack of rehabilitation centers, and that private rehabilitation centers can accommodate some provided that the government pay for them. However, he wondered whether the Filipino people wanted the ongoing killings, which has claimed 3,000 lives from July 1 to September 11, even though the number pales in comparison to Colombia and Mexico where over half-a-million and 130,000 people, respectively, were killed.

As to why the drug problem has persisted, Senator Gordon pointed out that 28% of the drug cases were dismissed because of the non-appearance of the prosecution witness or the police officers; insufficiency of evidence which is a reflection of competence and skill efficiency; reasonable doubt because of lack of preparation; demurrer to evidence granted by the court because of irregularity, illegal arrest, search and seizure, lack of investigative training; and failure to comply with Section 21 of RA 9165. Also, he mentioned as another factor the death of the accused. He further noted that the country has been losing the war against drugs because of widespread narco-politics among LGUs and national officials, in jails, in the Bureau of Corrections, in detention centers or even politicians who tapped drug money as campaign funds. He said that he were raising the red flag to encourage people to act.

As the second major problem that the country was facing, Senator Gordon cited terrorism, noting



that the NPA, which started in Luzon and moved to the Visayas and Mindanao, was the longest insurgency problem in Asia, being there for the last five decades, aside from the MILF, the MNLF and currently the Abu Sayyaf, which is based in Basilan and Sulu. He narrated that together with the Red Cross Administrator and Governor Salamudin, they were able to talk to the Abu Sayyaf when they negotiated the release of some members of the Red Cross and some teachers whom they held captive in 2000. He disclosed that according to Senator Honasan, the Abu Sayyaf Group (ASG), which has been declared as a terrorist organization under the USFTO Law, Intelligence Reform and Terrorism Prevention Act of 2004, made Basilan and Sulu their playground because they know they have an advantage against the government forces because they are familiar with the terrain. He said that the group has a long history of terrorism but nothing has happened.

At this juncture he enumerated some of the atrocities committed by the ASG:

- Davao Market bombing, September 2, 2016, 14 killed, 71 injured, including SPO1 Jay Adremisin, who was relaxing after a quick massage, and that registered nurse Christian Visnon, a Philippine Red Cross volunteer who worked with the Sultan Kudarat Chapter, was among those who died;
- Bomb attack in Lanao del Sur on May 13, 2016, 56 killed including 54 militants and two soldiers;
- The Davao International Airport bombing in March 2003 which killed 22;
- The Davao Sasa seaport bombing on April 2, 2003 with 17 killed;
- Superferry bombing in Manila Bay, February 27, 2004, 116 killed;
- Dos Palmas kidnapping in May 27 2001 to June 7, 2002 wherein 22 Filipino soldiers were killed in the process of trying to rescue the 22 hostages, five of whom were killed, including the husband of Grace Graham Burnham;
- Lanao del Sur jailbreak in Maute, August 28, 2016, 23 prisoners escaped;
- Abu Sayyaf atrocities from 1995 to 2016, 144 soldiers were killed, one civilian of which was beheaded; 48 injured, 32 kidnapped; and
- Kidnapping between year 2000 to 2008, 21 jour-

nalists including seven Filipinos, eight Germans, four French, one Australian and one Danish.

He also mentioned the story of a mother who texted his son only to receive a reply from the Abu Sayyaf which says, “*Hawak ko na ang cellphone ng anak mo, patay na son mo, wala na ulo niya, pinutulan na namin ng ulo niya kahapon*, August 31, 2016, at kung ikaw ay pupunta rito, puputulan ka rin namin ng ulo.” He said that such acts were brazen and agonizing.

Senator Gordon said that recently, four Malaysians were kidnapped in a boat. He expressed fear that the kidnapping of foreigners might lead to foreign countries coming to the Philippines to rescue their kidnapped nationals like what happened in Entebbe airport. He recalled that the Entebbe raid happened when Air France, carrying among them 94 Israelis, was hijacked by Palestine; Israeli planes carrying Israeli commandos then flew 2,500 miles and raided Entebbe Airport in Uganda to rescue the passengers. He said that there were no sovereignty issues and many Ugandan troops were killed in the process. He added that it was General Yonatan “Yoni” Netanyahu, the brother of Israel Prime Minister Bibi Netanyahu, who lead the raid at Entebbe though he was killed in the mission.

Senator Gordon continued citing the atrocities committed by the ASG:

- 37 foreigners kidnapped in total and brought to Basilan and Sulu; the Italian in Dipolog City was released in 2016 after paying ransom;
- Malaysian Bernard was kidnapped in Sandakan and Sabah and was beheaded in Jolo;
- Canadians John Risdale and Robert Hall, kidnapped in Samal Island and was beheaded in Sulu; the kidnappers reportedly asked P3 billion; and
- The kidnapping of 12 Malaysians and 22 Indonesians who were fishermen sailing in the Sulu Sea, in the area of Indonesia, Malaysia and the Philippines.

To address the problems on drugs and terrorism, Senator Gordon said that the President, invoking the commander-in-chief provision of the Constitution, declared a state of emergency on account of lawless violence.

At this point, he showed a slide showing the Presidential Proclamation.



Senator Gordon explained that the proclamation was based on Article VII, Section 18 of the Constitution which granted the President, as commander-in-chief, the power to command the Armed Forces of the Philippines and the Philippine National Police to undertake such measures as may be permitted by the Constitution and existing laws to suppress any and all forms of lawless violence. He said that he agreed with the observation of lawless violence in Mindanao and to prevent such lawless violence from spreading and escalating elsewhere in the Philippines with due regard to the fundamental civil and political rights of the citizens.

He said that he understood the fear expressed by the people every time proclamations of such kind were issued because of the bad experiences they had not only during the times of Marcos but also during the time of President Quezon, Ramos and Cory Aquino, who also declared states of emergency.

But Senator Gordon pointed out that under Article VII, Section 18 of the 1987 Constitution, "the President shall be the Commander-in-Chief of all armed forces of the Philippines and whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence. In case of invasion or rebellion, when the public safety requires it, he may, for a period not exceeding sixty days, suspend the privilege of the writ of *habeas corpus* or place the Philippines or any part thereof under martial law. Within 48 hours from the proclamation of martial law or the suspension of the privilege of the writ of *habeas corpus*, the President shall submit a report in person or in writing to the Congress. The Congress, voting jointly, by a vote of at least a majority of all its Members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President. Upon the initiative of the President, the Congress may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress, if the invasion or rebellion shall persist and public safety requires it.

He explained that under his proposed bill, the suspension of the privilege of the *writ of habeas corpus* shall only apply to those judicially charged for rebellion or offenses inherent in or directly connected with the invasion, and that during the suspension, any person arrested or detained shall be judicially charged within three days, otherwise, he shall be released. He claimed that the commander-in-chief

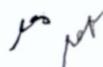
provision was so worded because the people who framed the Constitution and were appointed by the President during the declaration of the revolutionary government, have personal grievances against martial law. He hoped that the people who composed the Constitutional Commission would someday realize that the privilege would be needed. He believed that such proclamation of martial law and the suspension of the privilege of the writ of *habeas corpus* are useless anyway because the Congress could reject them.

On whether the country could be helpless during a state of emergency, he explained that the Constitutional Commission wrote Article VI saying that Congress, by a vote of 2/3 of both Houses in joint session assembled, voting separately, shall have the sole power to declare the existence of a state of war; that in times of war or national emergency, Congress may, by law, authorize the President, for a limited period, and subject to restrictions as it may prescribe, to exercise powers necessary and proper to carry out a declared policy; and unless sooner withdrawn by a resolution of the Congress, such power shall cease upon the next adjournment of the Congress.

Senator Gordon said that he believed in the sincerity of the President to eradicate drugs. However, he stated that in eradicating drugs, it should be done right by allowing Congress to review the proclamation and if warranted, grant him the powers necessary to carry out his declared policy. He emphasized that there must be an effort to make the people win.

He also mentioned his interview with Karen Davila, when he made a statement regarding the suspension of the privilege of the writ of *habeas corpus* for drugs and terrorism offenses which was wrongly interpreted by some people, as if he did not study the Constitution. Still, he admitted that he wanted his interview to be shown so that it would stir a reaction from the viewing public especially those who are voting without a clear knowledge of the Constitution.

Senator Gordon explained that his proposed bill seeks to ensure that the state of lawlessness is handled well because he does not want the President to suffer setbacks especially in light of some of his statements which he believed were unsuitable but not really wrong. He said that he understood how the President feels and that he was even willing to



extend help. He underscored, however, that he was not going to cross the line and go beyond the pale by allowing vigilante killings. He mentioned that he even told General Dela Rosa that there was no such thing as shoot-on-site or shoot-to-kill order, and that he even warned the General that he would be investigated by the Senate in its exercise of the fundamental principle of checks and balances. Similarly, he said that while the President can exercise emergency powers in accordance with the Constitution, the Congress can also limit these powers by applying the principle of checks and balances as held in the case of *David vs. Macapagal-Arroyo*. In that case, he said, the Supreme Court ruled that the President may declare a state of national emergency and call out the armed forces to prevent or suppress lawless violence whenever it becomes necessary and if the facts so warrant; however, this does not carry with it emergency powers without proper grant by Congress. He further quoted the Supreme Court, to wit: "Congress is a repository of emergency powers provided in the Constitution under Article VI, Section 23 where executive, legislative and judicial powers are dispersed throughout, from the President to Congress to the Supreme Court, respectively. Each branch is supreme within its own sphere and not one has the monopoly of power in times of emergency inasmuch as each has a role to serve — as a limitation upon the other. This system does not weaken the power of the president, it just limits his powers." He stressed that he is for a strong president, that he wants strength not through the native power of arms, but strength based on discipline.

To the rule of law, Senator Gordon said that other countries should not be allowed a moral high ground to accuse that the Philippines has no rule of law because it has a Constitution, there are courts of law and there is access and appeal to courts. He said that the Senate should stand its ground, and that it must exercise its role on whether or not to grant emergency powers to the President.

He then presented on the screen a matrix based on the principle of *salus populi est suprema lex*—the health, safety or welfare of the public is the supreme law; it is also the reason people surrendered some of their individual rights so that the government can form a system that would fight for the country's welfare.

Senator Gordon explained that he filed the bill "An Act Declaring a National Emergency Against

Illegal Drugs and Terrorism and Establishing a National Policy to Authorize the President in Accordance with the Constitution," because he was alarmed that as of September 2016, there were 3,000 killings; 1,490 vigilante killings; 1,510 police killings; 700 surrenderees to *Oplan Tokhang*; 3.7 million drug-affected Filipinos. On the matter of terrorism, he cited that there were 402 bombings in the Philippines including the recent Davao night market bombing where 16 people were killed and 71 were injured.

A slide of Article II, Section 4 of the Philippine Constitution was shown on the screen.

As to why there is need for the declaration of a national emergency against illegal drugs, terrorism and lawlessness including riding in tandem, Senator Gordon stressed that it is the State's sworn duty to serve and protect its people. He said that when people die due to drugs or terrorist attacks, the State is perceived to be weak if it cannot provide public safety. On the other hand, he said that when people are killed without violating their rights, it becomes a slippery slope although it can be justified that it was because they were evading arrest; conversely, it seems more dangerous if the State cannot protect its people, that was why President Duterte was handsomely elected by a lead of six million votes in the last elections because of his platform to promote peace and order.

Senator Gordon emphasized that the State should protect its people using emergency powers under the rule of law, the legal basis being Article VI of the Constitution and the Supreme Court ruling on the *David v. Arroyo* case. He said that under his proposed bill, the declared policy is as follows: "The State values the dignity of every human person and guarantees full respect for human rights. Due to and by reason thereof, it is thereby declared a national policy to authorize the President, in accordance with the Constitution, to exercise necessary and proper powers for a limited period only and subject to restrictions prescribed by this Act to effectively address the declared national emergency."

He then proceeded to cite the salient points of the bill which consist, among others, the emergency powers to be granted to the President such as: 1) to appoint special prosecutors whose offices will be open 24 hours every day including Saturdays, Sundays

and holidays to receive complaints and information or conduct preliminary investigation; 2) to appoint special defense counsels to address the need to protect the rights of the accused; 3) to issue hold-departure orders and orders limiting the right to travel; 4) to relax the Bank Secrecy Law against terrorists and drug-related offenders; 5) to issue freeze orders for property and funds involved in illegal drugs and terrorism; and 6) to initiate the construction of detention centers. He said that the bill will also create a Congressional Oversight Committee composed of three House members, three Senate members, which shall have the power to invite interested parties to the oversight proceedings, adding that the Committee will monitor the implementation of the measure and shall receive a log book prepared by the police and submitted to Congress biweekly along with the CCTV data, if any, by the police officers who made the biweekly report. Moreover, he said that there is also a submission of bi-weekly report from the President regarding the implementation of the Act inasmuch as the oversight committee provides the Congress the checks and balances of emergency powers. Additionally, he said that the bill would authorize the creation of special courts which must be available 24 hours everyday to hear cases involving illegal drugs and terrorism in every judicial region to conduct continuous and speedy trial not exceeding 60 days with a decision to be made within 10 days from the time the case was submitted for decision, as well the issuance of the writ of *salus populi est suprema en ox.*

At this point, Senator Gordon presented to the Body a newspaper with the article entitled "France arrests 15-year-old boy for planning 'imminent' Paris attack – sources." He said that the article was about a 15-year old kid in France who was arrested and put under house arrest without court order, for planning a Paris attack, pursuant to a state of emergency that was declared after the November 13 attacks.

To his proposal for the issuance of a writ of *salus populi est suprema lex*, Senator Gordon explained that it assumes a clear and present danger which is not a mere wild guess inasmuch as nobody could determine a bomb attack, but once an information was given, there must be a court that would invite the witness to testify, or investigate and detain an offender to deter the threat of imminent violence. He underscored that the balancing of interest is important since the harm to be avoided must be waved against the rights of the individual being

arrested; hence, standards must be set. Considering that the lives of those who received information regarding a drug-related or terrorist-related crime may be in danger, particularly when in the interest of national security, he said that they may be ordered to appear in court for investigation by the authorities, and the witness protection program authored by Senator Drilon may apply.

A slide defining preliminary attachment (Sec. 6) and confiscation and escheat (Sec. 7) was shown on the screen.

Senator Gordon pointed out that under the law on dangerous drugs, the effects and instruments of the crime can be confiscated upon conviction. However, he disclosed that during the committee hearing, it was found out that none of the monies, cars or real properties were confiscated from those arrested for illegal drug crimes. At this point, he expressed his intent to have the Blue Ribbon Committee investigate how women and weapons were able to enter the Bilibid prison and detention centers. He said that in preliminary attachment, when there is probable cause that a person was arrested for illegal drugs, the properties of the accused in drug cases can be confiscated and put under escheat in favor of the government while in trial so he/she would not be able to use the same against the government or threaten and impair the rights of his/her victims.

Aside from the official log book and CCTV, Senator Gordon said that under Section 9 (*prevention of abuse*) public officials violating the Act and willfully fail to attend hearings shall be prevented and suspended from office and shall be disciplined in accordance with existing law.

Furthermore, he pointed out that the information and education campaign against drug use should not cease among children and there must be a fund for meetings of parent-teacher associations so they could trace children who can be potential victims to drug pushers; the DepEd should also be funded in training a guidance counselor in every school or campus. In fact, he said that he would even go as far as assigning a psychiatrist or psychologist in every province and as regards the duration, it is up to Congress to set the effectiveness to 180 days or six months unless sooner withdrawn by a joint resolution of Congress. In the end, he said that the Congress would be doing its duty as enshrined in the Constitution—to protect the people.

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He went on to quote Francis Bacon regarding the principle *salus populi est supreme lex*: “Judges ought above all to remember *salus populi est supreme lex*”— the welfare, health and safety of the people is the true law—“and to know that laws, except they be in order to that end, are but things captious and oracles not well inspired.” He said that if the supreme law would not be observed, everything is pointless.

He further quoted Herbert Broom: “The good of the individual ought to yield to that of the community.” He said that this was based on the implied agreement of every member of society that his own individual welfare shall, in cases of necessity, yield to that of the community, that life, liberty and property shall under certain circumstances be placed in jeopardy or even sacrifice for the public good, and when incidentally they are called to fight a war, a defensive war, they can be all drafted.

Finally, as a reminder to his colleagues and President Duterte, he suggested to read in their short time the book, “*A Man for All Seasons*,” about Sir Thomas More who was asked to take the oath of allegiance to the king because he wanted to marry another dame and he was going to separate himself from the church.

Thereupon, he read the script as Sir Thomas More was talking to William Roper.

William Roper: “Now, you give the devil the benefit of law” as Roper wanted Thomas More to attack Rich for maligning him with the king’s adviser.

Sir Thomas More: “Yes, what would you do? Cut a road through the law to get after the Devil?”

William Roper: “Yes, I’d cut down every law in England to do that.”

Sir Thomas More: “And when the last law was down, and the Devil turned on you, where would you hide, Roper, the laws all being flat? This country is planted with laws, from coast to coast, Man’s laws not God’s; and if you cut them down, and you’re just the man to do it, do you really think you could stand upright in the wind that would blow then? Yes, I would give the Devil benefit of law from my own safety’s sake.”

Senator Gordon ended his speech by enjoining everyone to use the law to get the devil because without it, the devil would get us.

INTERPELLATION OF SENATOR PACQUIAO

Asked by Senator Pacquiao for his proposals to stamp out illegal drug activities in the country, Senator Gordon said this would include having courts that would be opened 24 hours, getting more prosecutors as well as other legal means that may be used by the state including his proposal for the issuance of the writ of *salus populi est suprema lex* rather than the suspension of the privilege of the writ of *habeas corpus*.

But Senator Pacquiao noted that the Public Attorney’s Office is available to provide legal counsel for indigent victims, and he asked what else could be done to solve the illegal drug problem. Senator Gordon said that while the judiciary can create additional courts to handle drug-related cases, the Legislature can provide funds for the establishment of detention centers.

On whether the death penalty could help reduce or eliminate illegal drugs in the country, Senator Gordon said that there are differing views on the matter. For instance, he said that in his case, he wanted his father’s killers arrested, jailed and suffer for life. Their sufferings, according to him, would be their families’ suffering too. That, he added, would be a greater and more humane deterrent rather than the death penalty. What, he asked, if they were finally found innocent but have already been executed?

Asked if he was in favor of the death penalty, Senator Gordon stated that he was against it and believed that Senator Pacquiao would respect his position on the matter in the same manner that he respected the former’s views on the same. He pointed out that it is the people’s decision that would prevail in the end.

Senator Pacquiao believed that the death penalty is a solution to reducing crime, particularly those involving the use of illegal drugs.

Citing the case of a nurse who had been stabbed to death by a drug addict, Senator Gordon said that under the old law, the perpetrator ought to have been meted the death penalty. However, he asked if it would be better if the convict would be tried by the court and sentenced to life imprisonment so that he would not only suffer for his crime but also serve as an example against committing such atrocities.

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Unlike criminals who are meted the death penalty, Senator Gordon said that convicts who are imprisoned remember why they are being punished and their visiting family members are reminded why they have been locked up and why they too are suffering as a consequence of their actions.

On whether he was in favor of Senate Bill No. 185 which seeks to impose the death penalty on drug traffickers, Senator Gordon stressed that he wanted the offenders to really suffer and experience the painful consequences of their actions unlike suspected drug traffickers who are summarily executed and could no longer be used by the authorities to help them identify their cohorts in the illegal drug trade.

For his part, Senator Pacquiao saw no reason for people to oppose the death penalty for drug traffickers when it is not against the Constitution and neither it is not wrong in the eyes of God since even the New Testament assumes the right of the State to use it as a means of discipline. He believed that having such a law would show the people that through due process, justice would be served to those guilty of such heinous crimes. Senator Gordon clarified that while the death penalty can be imposed by the State for these purposes, he himself was personally against it.

In a related matter, Senator Gordon noted that even an innocent like Jesus Christ himself was put to death. However, Senator Pacquiao pointed out that as being both man and God, Jesus had to be crucified and die to save man from his sins.

Senator Gordon said that he had all the more reason to want criminals like his father's killers to be punished by death but that he would not change his stand against death penalty. While it could be argued that the P73 million needed for keeping convicts could be better used for educating children, he believed that prisoners should be kept alive because this is the right thing to do.

Saying that he has known President Duterte even before he became the chief executive, Senator Pacquiao believed that the President has a good heart and sincerely wanted to do what he can to help the country and its people. He said that he saw the President's request for additional powers in the midst of the current state of national emergency merely as a means to promote the country's welfare, and he urged the other senators to work together to help make this possible.

As a clarification, Senator Gordon said that he did not think President Duterte's intentions were wrong, but he believed that the government ought to do what is right by sharing these emergency powers as allowed by the Constitution lest he heed bad counsel from certain advisers.

INTERPELLATION OF SENATOR DE LIMA

Asked by Senator De Lima whether he had filed a bill in support of his proposal, Senator Gordon replied that he had filed the bill that afternoon.

Given the magnitude of the proposal, Senator De Lima believed that the Members would need much time to review the bill.

To the observation that the bill seeks to go beyond what the President has done in issuing Proclamation No. 55, Senator Gordon explained that his measure is more specific because it seeks to let the public know the government's intention for this executive order, particularly since Article VI, Section 23 of the Constitution allows Congress to prescribe limits upon which the power will be undertaken. He believed that people would like to know where the nation is headed. Moreover, he pointed out that under the rule of law, there must be a clear description of the law so that there will be recourse to the powers vested in government authorities.

Noting that Proclamation No. 55 was an exercise of executive power, Senator De Lima surmised that the President — being aware of the restrictions of such powers especially if he would suspend the privilege of the writ of *habeas corpus* or declare martial law — limited himself into the declaration of the state of national emergency on account of lawless violence in Mindanao. Senator Gordon stated that such call out power of the President are consistent with the interpretation of the Supreme Court.

On whether this executive power under Article VII, Section 18 is subjected to certain checks because it may even be revoked by Congress, Senator Gordon maintained that the proclamation is a declaration but not an exercise of the power as the President is limited by what is in the Constitution.

As regards the observation that the call out power is in itself an legitimate executive power, but is not subject to any congressional concurrence, Senator Gordon replied that the Senate can do so.

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Senator De Lima noted that Proclamation No. 55 confined the all-out war against terrorism only in Mindanao which, she feared, could spill out from Mindanao to the rest of the country, particularly to Metro Manila.

Senator Gordon stated that he does not know if the President limited the call-out power only in Mindanao, noting that lawless violence like vigilante killings is included in the coverage, including riding-in-tandem killings.

Senator De Lima stated that based on their pronouncements, the President, as well as Chief Presidential Legal Counsel (CPLC) Panelo, was contemplating on the inclusion of the spate of killings in the scope of the proclamation declaring a state of national emergency. Senator Gordon stated that he was glad that the President was transparent about including the spate of killings in the coverage.

Asked whether in the final version of Proclamation No. 55 the Executive Department limited the scope only to terrorism and not to the spate of killings, Senator Gordon replied that the best evidence is the proclamation itself, *res ipsa loquitur*.

Asked why there was a change of heart, Senator Gordon admitted that he would not know why.

Citing media reports, Senator De Lima stated that Attorney Panelo was heard saying that the Executive department was already drafting Proclamation No. 55 even before the September 2 Davao bombing occurred. She inquired if the draft proclamation included the killings. Senator Gordon replied that there was already a denial made by the Executive. Stating that he only goes by what he sees, he said that he does not expect the Executive department to do anything else because it would go beyond the pale if it does.

Senator De Lima asserted that the President himself said that by declaring a state of national emergency he would be able to address the killings and not just terrorism. She stressed that the President's statements indicated that he was contemplating on including killings in the declaration.

Senator Gordon disclosed that he had only seen the President once since he was elected and it was on the budget with other senators. He said that both

branches of government were transparent during the meeting. He maintained that he does not know what was in the mind of the President and that he only goes by what he sees.

Senator De Lima stated that it is important to mention and to inquire about the other reasons behind the proclamation. She said that it was rather perplexing that the Executive would include the spate of killings as part of the lawlessness when people are saying that the all-out war on drugs has cleaned the streets of criminality, thereby contradicting any proposition of lawlessness. She surmised that the reason why the Executive had a change of heart was that the streets are safer now.

In reply, Senator Gordon stated that he would not dare speculate on the reasons why there was a change of heart. He said that he has heard that the bombing in Davao could have been the handiwork of the Abu Sayyaf, the myriads of drug lords, or a foreign power trying to destabilize the government. He said that he could even posit that the government could even be destabilized by China just as when the British destabilized them during the Opium War. However, he stressed that he can only go by the facts and by what he sees. He said that when the Senate is called upon to consider it, such declarations would be determined based on facts.

Asked if there has been any official confirmation or official verification that the September 2 bombing was the handiwork of the Abu Sayyaf Group (ASG) and was therefore an act of terrorism, Senator Gordon said that the ASG has proudly claimed responsibility for the bombing.

At this juncture, Senate President Pimentel relinquished the Chair to Senate President Pro Tempore Drilon.

Senator De Lima expressed doubt that it was the ASG who committed the bombing, noting that after owning up to the incident, a disclaimer was issued later.

Senator Gordon stated that he was not aware of any disclaimer. He said that based on what he has read and heard, it was only the ASG that claimed responsibility for the bombing. He said that it looks credible that they admit to it. He said that one day, as he was certain that Senator De Lima, being a lawyer herself, would agree that if the authorities

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catch the person who has claimed responsibility, the admission could be used against him.

Senator De Lima opined that the Body should be able to confirm from the appropriate authorities the progress of the investigation into the September 2 bombing incident. She stated that she has not seen any official report from any of the concerned state authorities making any conclusion as to who could be responsible for the dastardly act.

Senator Gordon said that he has recited about 405 bombing cases all over the country yet 95% of them have not been solved. He conceded that it would take a while for the cases to be solved. He said that if the questions of Senator De Lima are based on speculations, he was willing to stipulate that she was entitled to such. However, he stated that like Senator Pacquiao, he was also entitled to his own belief and that he would answer forthrightly if he knows anything about the matter.

Adverting to Proclamation No. 55, Senator De Lima observed that if the declaration of a state of national emergency was merely an exercise of the call-out power against lawless violence in Mindanao, then it would entail simply the deployment of more military forces to augment the PNP forces in the area.

Senator Gordon said that he failed to mention in his speech that it was clever for the President to have ceasefire agreements with the MILF and the NPA so that he could put in more forces in Sulu, Basilan and Lanao which, hopefully, could eradicate the menace of terrorism.

As regards the number of troops deployed in Mindanao pursuant to the call-out power, Senator Gordon replied that based on what he has read from reports, 8,500 troops have been sent to Sulu and a couple of battalions in Lanao.

Asked how the call out power is exercised in metropolitan areas, Senator Gordon stated that there are army troops and policemen on the streets and in checkpoints. He believed that as a matter of national security, it would be best not to talk about where the troops are deployed as it could tip off the enemy.

Senator De Lima stated that it was understandable that the matter cannot be talked about extensively. She said that she was merely trying to understand the scope of the call-out power and how it is being implemented. She observed that Senator Gordon was

proposing to expand the coverage of the emergency powers to cover not only terrorism but the drug problem and killings as well.

Agreeing with Senator De Lima, Senator Gordon stated that Members of Congress have sworn to protect the public. He said that the country is besieged by the menace of killings by riding-in-tandem and that every Filipino is in danger of being shot by anyone of them.

At this juncture, Senator Gordon directed the Body's attention to a short clip showing persons riding in tandem and killing their target.

Senator Gordon pointed out that the shooting incident in the video clip happened in the Province of Isabela in November 13, 2015. He stated that as the vehicle in the video which was being driven by a man with his wife and "daughter as passengers, was coming out of the driveway, two men came out of the woodwork and started spraying the vehicle with bullets. He said that the man was shot several times but was able to escape; after several seconds, the two suspects escaped on motorcycle and were never caught, and the victim and his family were brought to Manila in an undisclosed hospital for treatment.

Asked when the incident happened, Senator Gordon replied that the incident transpired in November 13, 2015 in Isabela. He stated that riding-in-tandem gunmen abound all over the country.

Senator De Lima stated that it is the Senate's duty to investigate and determine the facts of the incident.

Agreeing with Senator De Lima, Senator Gordon stated that while the Senate can investigate, it also must do something about it, thus, he filed Senate Bill No. 1128 to capture lawless elements riding on motorcycles. He explained that the reason why the criminals are not captured was that the plate numbers of the motorcycles are very small. He then showed the Body a picture of a motorcycle and what the size of its plates should be. He expressed hope that Senator De Lima would agree to the proposed measure. He said that his next bill would require putting big body numbers on jeepneys and tricycles just like in Olongapo City.

At this juncture, Senate President Pro Tempore Drilon relinquished the Chair to Senate President Pimentel.



He also stressed the need for Congress to craft a law that would stop the abuses, believing that the Constitution allows the government to manacle the excesses. For instance, he said that government could even be allowed to buy electronic bracelets that would give information as to a person's whereabouts if released on bail. He said that he would rather do something than do nothing.

Senator De Lima lauded the bill of Senator Gordon but stated that she would like to scrutinize the additional powers that his bill proposes to be given to the President. She stressed the need for Congress to be careful that every additional power that it intends to give the President should be within the bounds of the Constitution, that it is necessary, and that the problems to be remedied by the additional powers cannot be done under the current laws.

Senator Gordon stated that it is the privilege of every senator to read the measure as he reminded the Body that his speech was intended to call everyone's attention to help find a way to solve the problem and not to allow one branch of government to have superiority over all. He said that in his speech, he mentioned the case of *David vs. Macapagal-Arroyo* to ensure that Congress does not forget the separation of powers clause which is spread out in every law. He expressed confidence that the Body would scrutinize and provide the necessary solutions to any shortcomings.

With regard to the ASG, Senator De Lima revealed that the group has already been judicially proscribed or declared last year as an international terrorist group pursuant to the Human Security Act, by virtue of which the DOJ filed the appropriate petition before the RTC so that it can authorize interception of communications and relax the provisions of the Anti-Wire Tapping Law and other measures like examination of bank accounts of the terror organization as provided for under the Human Security Act. She pointed out that some of the powers already enumerated in the bill might be unnecessary since they are already found in other laws.

Senator Gordon stated that he would accept any amendment to the measure at the proper time. He stressed, however, that some of the amplifications were meant to fortify the provisions found in certain laws. As an example, he cited that instead of 40 days, the extended period for freezing of accounts would be limited to 30.

Senator Gordon said that the Human Security Act allows only for three days to file the case while under the writ of *salus populi est suprema lex*, if there is information that somebody is about to perpetrate a bombing that would produce wanton killing, the government, in *articulo pericula*, or a state of absolute danger, must not be helpless as it could file a case against the suspects and detain them.

Asked to explain the writ of *salus populi est suprema lex*, Senator Gordon stated that it covers cases where the state perceives a very clear and present danger that a severe attack is going to be made. He said that by using the regular process of the law, the authorities would not be able to invite, detain or keep someone in custody but they would try to convince the court that they need to have the person submit himself, provided that all the processes are available to him, including bail. Senator De Lima added that the writ could only be obtained by court order. Senator Gordon agreed, stating that the writ follows closely the provision in the Bill of Rights that on search orders, no process shall be served unless it goes to court to explain the necessity of the matter.

For her part, Senator De Lima assumed that the person to be subjected to the writ of *salus populi est suprema lex* based on Section 11 of the bill is any person possessing intelligence information vital to the protection of life and limb. Senator Gordon agreed, explaining that the process would be like inviting someone and convincing him that his testimonies are vital for the welfare and safety of the country; or for that matter, since it is already known that somebody has already perpetrated it under the Rules of Court, there is a need for additional evidence to convict the person.

On another matter, Senator De Lima said she would like to straighten the facts as regards the issue that nothing happened after the raid conducted at the New Bilibid Prison on December 15, 2014. She said that the raid, which was covered by national television outfits, was a massive, sensitive operation participated in by various agencies. She said that she herself led the raid, the reason why she cannot help but react to reports that nothing happened after the December 15 raid. She insisted that there was no such thing as *shabu* laboratory inside the New Bilibid Prison and that reports about the manufacture of *shabu* inside the facility were not confirmed. She admitted that high-profile drug convicts Peter Co and Colangco



were for some reasons still able to engage in the drug trade because of the use of communication devices like cellular phones, which they used to talk to their cohorts outside the New Bilibid. As regards the jacuzzi and the music room, she said that they were demolished along with some of the *kubol*.

Senator De Lima admitted that she was surprised by the report of Secretary Aguirre in one of the hearings of the Committee on Public Order and Dangerous Drugs that they were still able to confiscate some contrabands from high-profile drug inmates such as Peter Co, when the NBP was supposedly under guard by SAF. She said that the recent discovery was nothing compared to the ones discovered on December 15, 2014, and that in spite of all the efforts that she has poured in, still it was reported that nothing happened, and that she was even about to be investigated at the House of Representatives because of the alleged proliferation of drugs under her watch, as if she did nothing to address the drug problem within the Bilibid.

She admitted that she was hurt by the reports blaming her for what happened in Bilibid. She maintained that the entry of contrabands was stopped, the *kubols* were demolished, and some of the high-profile drug convicts, including the one who issued death threats to a justice of the Supreme Court, were transferred temporarily to the NBI detention facility.

Senator Gordon said that he understood and respected the sentiments of Senator De Lima and apologized if what he heard from the PNP chief about the incidents inside the Bilibid have caused her discomfort.

MANIFESTATION OF SENATOR DRILON

Senator Drilon assumed that Senate Bill No. 1134 would be referred to an appropriate committee once included in the Order of Business. He said that it would be best that questions on the bill be raised as soon as it is reported out by the committee and the provisions are out.

MOTION OF SENATOR SOTTO

Thereupon, Senator Sotto moved that the speech of Senator Gordon be referred to the Blue Ribbon Committee.

Senator Drilon requested that the referral of the speech be deferred after the Secretariat has determined which committee would have jurisdiction over Senate Bill No. 1134 so that the speech of Senator Gordon could be referred to the same.

Senator Sotto withdrew his motion.

REFERENCE OF BUSINESS *(Continuation)*

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

BILLS ON FIRST READING

Senate Bill No. 1130, entitled

AN ACT ESTABLISHING A LABOR EMPOWERMENT ASSISTANCE PROGRAM, AMENDING PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Joel Villanueva

To the Committees on Labor, Employment and Human Resources Development; and Finance

Senate Bill No. 1131, entitled

AN ACT RE-INSTITUTING RESERVE OFFICERS' TRAINING CORPS (ROTC) AS A MANDATORY COURSE FOR TERTIARY LEVEL STUDENTS AND FOR OTHER PURPOSES

Introduced by Senator Joseph Victor Ejercito

To the Committees on Education, Arts and Culture; and National Defense and Security

Senate Bill No. 1132, entitled

AN ACT PROVIDING FOR THE DEVELOPMENT, REHABILITATION AND MODERNIZATION OF NAVAL



AIRPORT IN THE PROVINCE OF BILIRAN AND TO ALLOCATE FUNDS THEREOF

Introduced by Senator Joseph Victor Ejercito

To the Committees on Public Works; and Finance

Senate Bill No. 1133, entitled

AN ACT STRENGTHENING THE NATIONAL AND LOCAL HEALTH AND NUTRITION PROGRAMS FOR PREGNANT AND LACTATING WOMEN, INFANTS AND YOUNG CHILDREN IN THE FIRST 1000 DAYS AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Joseph Victor Ejercito

To the Committees on Health and Demography; Women, Children, Family Relations and Gender Equality; and Finance

RESOLUTIONS

Proposed Senate Resolution No. 132, entitled

A RESOLUTION CONGRATULATING AND COMMENDING THE PHILIPPINE TEAM FOR GARNERING FOUR MEDALS AND TWO HONOURABLE MENTIONS IN THE 57TH INTERNATIONAL MATHEMATICAL OLYMPIAD HELD LAST JULY 6 – 16, 2016 IN HONG KONG

Introduced by Senator Paolo Benigno “Bam” Aquino IV

To the Committee on Rules

Proposed Senate Resolution No. 133, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ENERGY, TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, ON THE IMPENDING POWER DISCONNECTION OF THE BUKIDNON SUB-TRANSMISSION CORPORATION (BSTC) TO THE SERVICE AREA OF

THE BUKIDNON SECOND ELECTRIC COOPERATIVE (BUSECO) IN THE PROVINCE OF BUKIDNON WITH THE END VIEW OF PREVENTING THE RECURRANCE OF SIMILAR EVENTS THAT DISRUPT ECONOMIC ACTIVITIES AND PROTECTING THE INTEREST OF THE GENERAL PUBLIC

Introduced by Senator Zubiri

To the Committee on Energy

ADDITIONAL REFERRAL

Upon motion of Senator Sotto, there being no objection, the Chair referred Proposed Senate Resolution No. 133 to the Committee on Cooperatives as secondary committee.

COMMITTEE MEMBERSHIP

Upon nomination by Senator Sotto, there being no objection, the following senators were elected to the Joint Congressional Oversight Committee on Public Expenditures on the 2016 General Appropriations Act:

Chairperson : Legarda

Members:

Drilon	Lacson
Sotto	Villar
Angara	Recto
Aquino	

ADJOURNMENT OF SESSION

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

It was 5:54 p.m.

I hereby certify to the correctness of the foregoing.


ATTY. LUTGARDO B. BARBO
Secretary of the Senate

Approved on September 19, 2016