



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 46**  
Monday, January 27, 2020

**EIGHTEENTH CONGRESS  
FIRST REGULAR SESSION**

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Monday, January 27, 2020

**CALL TO ORDER**

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

**PRAYER**

Sen. Juan Miguel "Migz" F. Zubiri led the prayer, to wit:

Our Lady of Guadalupe, Mother of the True God, our merciful Mother, we, thy children, come today in an act of filial homage of faith, love and trust, to solemnly consecrate our nation, the Philippines, to thy immaculate heart. Take it from our fragile hands into thy own; defend it and guard it as thy own property; make our Lord Jesus reign, conquer, and rule in it. Outside of Him there is no salvation.

We, thy people, feel a terrible storm raging around us, threatening to disperse and destroy the faithful flock of those who bless thee because thou art the Mother of our Lord Jesus. Afflicted, we stretch out our suppliant hands towards thy Divine Son as we cry out: Save us, O Lord, for we perish!

Intercede for the Philippines, our Lady, in this grave hour when evil winds blow, bringing cries of death against thy Son and against the civilization founded on His teachings, deceiving

minds, perverting hearts, and lighting the fires of hatred and revolution in the world. Help of Christians, pray for us!

Intercede for the Philippines, our Lady, in this troubled hour when the unclean waves of an open immorality, which has even lost the notion of sin, exalt rehabilitation of the flesh in the face of the very Cross of thy Divine Son, threatening to choke in this world the lily of virtue nourished by the Eucharistic Blood of Jesus Christ. Virgin most powerful, pray for us!

Intercede for the Philippines, our Lady, in this hour of passions and doubts when even the good run the risk of being lost. Unite all the Filipino people around thy Divine Son, in love of the Church and also in cultivation of virtue, in respect for order and fraternal charity. Queen of peace, pray for us!

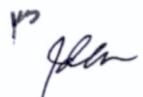
Queen of peace, pray for us.

Our Lady of Guadalupe, please pray for us.  
Our Lord Jesus, please pray for us.

Amen.

**NATIONAL ANTHEM**

The MMDA Chorale led the singing of the national anthem and thereafter rendered the song, entitled "Bayan Ko."



## ROLL CALL

Upon direction of the Senate President, the Secretary of the Senate, Atty. Myra Marie D. Villarica, called the roll, to which the following senators responded:

Angara, S.	Pacquiao, E. M. D.
Binay, M. L. N. S.	Pangilinan, F. N.
Cayetano, P. S.	Pimentel III, A. K.
Dela Rosa, R. B. M.	Recto, R. G.
Drilon, F. M.	Revilla Jr., R. B.
Gatchalian, W.	Sotto III, V. C.
Go, C. L. T.	Tolentino, F. T. N.
Hontiveros, R.	Villanueva, J.
Lacson, P. M.	Villar, C. A.
Lapid, M. L. M.	Zubiri, J. M. F.
Marcos, I. R.	

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

Senator Poe arrived after the roll call.

Senator Gordon was unable to attend the session because as indicated in the letter of his chief of staff dated January 22, 2020, "he was feeling a bit under the weather."

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

## ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

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

- Deputy Director General Abelardo P. Villacorta together with Assistant Director General Theodore Libardo and Director Candido Bontogon, Jr. of the National Intelligence Coordinating Agency (NICA);
- Director Florentino P. Manalastas, Jr. of the Anti-Terrorism Council-Program Management Center (ATC-PMC); and
- Assistant Secretary Orville A. Ballitoc of the Presidential Legislative Liaison Office (PLLO).

Senate President Sotto welcomed the guests to the Senate.

## MANIFESTATION OF SENATOR PACQUIAO

Senator Pacquiao said that in celebration of the National Bible Day by virtue of Republic Act No. 11163, Filipinos are gathered as one nation to reaffirm their faith and unite in professing the teachings of the Lord. In rejoicing the Word of God, he hoped that people would find more meaningful conversations with one another and endeavor to be bearers of good news throughout the world by allowing God's wisdom to fill their hearts with love, hope, and joy. He said that for the longest time, the nation has faltered to live by bread alone, and that while it is important to nourish the body for physical strength, witnessing the Living Truth by growing in faith feeds one's spirit and soul.

He requested everyone to communicate with God and express gratitude for the blessings they receive, and to strive towards unity. He then quoted Mark 3:24: "If a kingdom is divided against itself, that kingdom cannot stand." Thereupon, he hoped that the Word of God resonate in everyone's actions by abandoning earthly ways that divide the nation, and that they choose to live with courage and compassion in the midst of problems and trials. He also enjoined everyone to fix theirs eyes on God, saying that "apart from Him, we are nothing."

Lastly, he quoted the proclamation in Jeremiah 9:23-24: "Let not the wise boast of their wisdom or the strong boast of their strength or the rich boast of their riches, but let the one who boasts boast about this: that they have the understanding to know me, that I am the Lord, who exercises kindness, justice and righteousness on earth, for in these I delight."

## MANIFESTATION OF SENATOR VILLANUEVA

Senator Villanueva associated himself with Senator Pacquiao's manifestation, stating that indeed it was important to go back to the Word of God as Matthew 4:4 said: "Man shall not live on bread alone, but on every word that comes from the mouth of God," and John 15:5 where God said: "I am the vine; you are the branches. Whoever abides in Me, and I in him, he it is that bears much fruit; for apart from Me you can do nothing."



Senator Villanueva hoped that the celebration of National Bible Day would remind everyone of God's Word which gives light, guidance, and direction to everyday living.

### **APPROVAL OF THE JOURNAL**

Upon motion of Senator Zubiri, there being no objection, the Body dispensed with the reading of the Journal of Session No. 45 (January 22, 2020) 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. 1287, entitled

AN ACT ENSURING THE FUNDAMENTAL EQUALITY OF MEN AND WOMEN UNDER THE LAWS ON MARRIAGE AND FAMILY RELATIONS, AMENDING FOR THE PURPOSE ARTICLES 14, 96, 124, 211, AND 225 OF EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE "FAMILY CODE OF THE PHILIPPINES"

Introduced by Senator Hontiveros

**To the Committee on Women, Children, Family Relations and Gender Equality**

Senate Bill No. 1288, entitled

AN ACT CREATING THE OFFICE OF THE SURGEON GENERAL OF THE PHILIPPINES, PROVIDING ITS FUNCTIONS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Tolentino

**To the Committees on Health and Demography; and Finance**

Senate Bill No. 1291, entitled

AN ACT INCREASING THE BED CAPACITY OF THE EAST AVENUE MEDICAL CENTER FROM SIX HUNDRED (600) TO ONE THOUSAND (1,000) BEDS AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Angara

**To the Committees on Health and Demography; and Finance**

Senate Bill No. 1292, entitled

AN ACT PROMOTING ENVIRONMENTAL CONSCIOUSNESS THROUGH EDUCATION AND CIVIC ENGAGEMENT IN ORDER TO INCREASE SOCIAL RESPONSIBILITY AMONG THE YOUTH, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Sotto III

**To the Committees on Basic Education, Arts and Culture; Higher, Technical and Vocational Education; and Finance**

### **RESOLUTIONS**

Proposed Senate Resolution No. 294, entitled

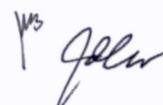
RESOLUTION CONGRATULATING AND COMMENDING EMIL Q. JAVIER, Ph.D. FOR BEING NAMED NATIONAL SCIENTIST OF THE PHILIPPINES BY VIRTUE OF PROCLAMATION No. 781

Introduced by Senator Binay

**To the Committee on Rules**

Proposed Senate Resolution No. 295, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEES TO CONDUCT AN INQUIRY IN AID OF LEGISLATION ON THE STATUS



OF THE ANIMALS LEFT BEHIND DURING THE TAAL ERUPTION, WITH THE END IN VIEW OF PROVIDING FOR THEIR INCLUSION IN EVACUATION AND DISASTER RISK REDUCTION PLANS

Introduced by Senator Binay

**To the Committee on National Defense and Security, Peace, Unification and Reconciliation**

**COMMUNICATIONS**

Letters 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 Nos. CL-2020-002, 003, 004, 005 and 006 dated, 8 and 10 January 2020, and Circular No. 1071, dated 8 January 2020.

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

**ADDITIONAL REFERENCE OF BUSINESS BILLS ON FIRST READING**

Senate Bill No. 1293, entitled

AN ACT INCREASING THE PENALTIES OF DECEPTIVE, UNFAIR, AND UNCONSCIONABLE SALES ACTS OR PRACTICES, PARTICULARLY IN TIMES OF CALAMITY, EMERGENCY CONFLICT AND DISTRESS, THEREBY AMENDING REPUBLIC ACT NO. 7394 OTHER-WISE KNOWN AS THE "CONSUMER ACT OF THE PHILIPPINES"

Introduced by Senator Marcos

**To the Committee on Trade, Commerce and Entrepreneurship**

Senate Bill No. 1294, entitled

AN ACT DECLARING DECEMBER 12 OF EVERY YEAR A SPECIAL WORKING HOLIDAY IN THE ENTIRE COUNTRY TO COMMEMORATE THE FEAST OF OUR LADY OF GUADALUPE

Introduced by Senator Lapid

**To the Committee on Basic Education, Arts and Culture**

Senate Bill No. 1295, entitled

AN ACT ESTABLISHING THE TAX REGIME OF PHILIPPINE OFFSHORE GAMING OPERATORS, AMENDING FOR THIS PURPOSE SECTIONS 27, 28, 42 AND 199 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED

Introduced by Senator Recto

**To the Committee on Ways and Means**

**RESOLUTIONS**

Proposed Senate Resolution No. 296, entitled

RESOLUTION URGING THE EXECUTIVE DEPARTMENT TO ENSURE EFFICIENT IMPLEMENTATION OF THE PLANS AND MEASURES ON THE REPATRIATION OF OVERSEAS FILIPINO WORKERS IN LIGHT OF THE MIDDLE EAST TENSIONS, THERE-BY SAFEGUARDING PUBLIC WELFARE AND INTEREST

Introduced by Senator Marcos

**To the Committees on Labor, Employment and Human Resources Development; and Foreign Relations**

Proposed Senate Resolution No. 297, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON URBAN PLANNING HOUSING AND RESET-



TLEMENT, IN AID OF LEGISLATION AND IN THE EXERCISE OF THE SENATE'S OVERSIGHT FUNCTIONS, TO URGENTLY CALL UPON THE DEPARTMENT OF HUMAN SETTLEMENTS AND URBAN DEVELOPMENT AND OTHER RELEVANT AGENCIES TO FORMULATE A SUSTAINABLE TAAL VOLCANO RESETTLEMENT AND REHABILITATION PROGRAM

Introduced by Senators Tolentino and Dela Rosa

**To the Committee on Urban Planning, Housing and Resettlement**

#### COMMUNICATIONS

Letter from the Office of the President of the Philippines, transmitting to the Senate two (2) original copies of Republic Act No. 11465, entitled

AN ACT APPROPRIATING FUNDS FOR THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES FROM JANUARY ONE TO DECEMBER THIRTY-ONE, TWO THOUSAND AND TWENTY, AND FOR OTHER PURPOSES,

which was signed by President Rodrigo Roa Duterte.

#### To the Archives

Letter from the Office of the President of the Philippines, transmitting to the Senate two (2) original copies of Republic Act No. 11467, entitled

AN ACT AMENDING SECTIONS 109, 141, 142, 143, 144, 147, 152, 263, 263-A, 265, AND 288-A, AND ADDING A NEW SECTION 290-A TO REPUBLIC ACT NO. 8424, AS AMENDED, OTHERWISE KNOWN AS THE NATIONAL REVENUE CODE OF 1997, AND FOR OTHER PURPOSES,

which was signed by President Rodrigo Duterte, together with his line-veto message in accordance with Article VI, Section 27(2) of the Constitution, which provides that "the President shall have the power to veto any particular items in an appropriation, revenue or tariff bill."

#### To the Archives

#### COMMITTEE REPORT

Committee Report No. 34, prepared and submitted jointly by the Committees on Energy; Science and Technology; Ways and Means; and Finance, on Senate Bill No. 1296, with Senator Gatchalian as author thereof, entitled

AN ACT ESTABLISHING THE PHILIPPINE ENERGY RESEARCH AND POLICY INSTITUTE, DEFINING ITS OBJECTIVES, POWERS, AND FUNCTIONS, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill No. 172.

Sponsor: Senator Gatchalian

#### To the Calendar for Ordinary Business

#### COMMITTEE REPORT NO. 9 ON SENATE BILL NO. 1083 *(Continuation)*

Upon motion of Senator Zubiri, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1083 (Committee Report No. 9), entitled

AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 9372, OTHERWISE KNOWN AS AN ACT TO SECURE THE STATE AND PROTECT OUR PEOPLE FROM TERRORISM.

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

Thereupon, the Chair recognized Senator Lacson, sponsor of the measure, and Senator Tolentino for his interpellation.

## INTERPELLATION OF SENATOR TOLENTINO

Senator Tolentino prefaced his interpellation with an enumeration of cases of terroristic acts, the victims of which, through their families, were able to obtain judgment that awarded them compensatory and punitive damages, to wit:

- *Alejandro vs. Republic Cuba* – On February 24, 1996, the Cuban Air Force shot down two unarmed U.S. civilian aircraft over international waters, killing all four occupants. Three of them were U.S. nationals. In 1997, the families of the three U.S. victims obtained a judgment against Cuba for approximately \$187.6 million in compensatory and punitive damages;
- *Flatow vs. Islamic Republic of Iran* – On April 9, 1995, a suicide bomber drove a van loaded with explosives into a bus to the Gaza Strip, killing seven Israeli soldiers and one U.S. national, Alisa Michelle Flatow, a 20-year-old college student spending a semester abroad in Israel. A terrorist group, the Shaqaqi faction of the Palestine Islamic Jihad, which was funded by the government of Iran, claimed responsibility for the explosion. On March 11, 1998, the family of Miss Flatow obtained a judgment in the U.S. court against Iran for \$247 million dollars in compensatory and punitive damages;
- *Cicippio vs. Islamic Republic of Iran* – Two U.S. nationals associated with the American University of Beirut and a third U.S. national who operated two private schools in Beirut were kidnapped in May 1985 in Lebanon by the Hezbollah, a group receiving material support from the government of Iran. The three men were imprisoned in extreme conditions and tortured until their release ranging from one and a half years to five years. On August 27, 1998, the three U.S. nationals, along with their spouses, obtained a judgment against Iran for \$65 million in compensatory damages;
- *Eisenfeld vs. Islamic Republic of Iran* – On February 25, 1996, two U.S. citizens, Mathew Eisenfeld and Sarah Duker, were killed in Israel by a bomb placed on a bus by the militant Palestinian organization, Hamas, which was funded by the government of Iran. On July 11,

2000, the families of the victims obtained a judgment against Iran for \$327 million in compensatory and punitive damages; and

- Abu Khattala, the alleged conspirator behind the 2014 attack in Benghazi, Libya which resulted in the death of U.S. Ambassador Christopher Stevens, was also haled in a court in the United States which resulted in damages.

Senator Tolentino stated that he cited those cases because the bill made no mention of civil damages. Senator Lacson took note of Senator Tolentino's observation, as he surmised that the reason could be that unlike the United States, the Philippines, being a weak nation, does not have the capability to seize assets and properties of foreign nationals involved in acts of terrorism, nor award the damages for the victims. However, he agreed to consider a provision on damages or civil liabilities not only of terrorists but of states as well, in cases of state-sponsored terrorism.

However, Senator Tolentino disagreed with the assumption that the legal institution of the country is weak as he pointed out the recently decided case regarding the Maguindanao massacre which resulted in the awarding of damages to the heirs of the victims: for victim Napoleon Salaysay, his heirs were awarded civil indemnity of P100,000, moral damages of P100,000, exemplary damages of P100,000, and loss of earning capacity of P2,250,004.50; while Representative Toto Mangudadatu was given civil indemnity of P100,000, moral damages of P100,000, exemplary damages of P100,000, and temperate damages of P100,000 for the death of Jenalyn Mangudadatu.

In reply, Senator Lacson stated that a provision on damages could be included in the bill. However, he noted that under Article 100 of the Revised Penal Code (RPC) (*Civil liability of a person guilty of felony*), the judge could include in the decision the award of damages to victims of crimes and the article, he opined, may be applied to the victims of acts of terrorism.

Senator Tolentino surmised that a civil case would automatically be instituted once a criminal case is filed. However, he pointed out that a separate civil action can be filed in view of a complementing provision found in the Rules of Court pertaining to cases involving Article 33 of the Revised Penal Code which deals with physical injuries, including death. He hoped that Senator Lacson would agree to have it included in the proposed measure during the period

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of amendments. Senator Lacson said that the Committee could consider the proposed amendments, although he noted that Article 33 is a separate provision which, unless waived, would still apply.

Senator Tolentino stated that in criminal cases, guilt beyond reasonable doubt needs to be proven, while in civil cases, the requirement is just a preponderance of evidence. Supposing the criminal case covered by the bill would be dismissed, he asked if the offended parties could still file a civil case. Senator Lacson answered in the affirmative, stating that the victims could pursue civil damages. He maintained that both the criminal and civil aspects are essential; however, coming from the perspective of national security which is included in national interest, the protection of the State should come first before the protection of individuals.

For his part, Senator Tolentino noted that the cases he cited earlier indicated a trend of holding the terrorist organizations civilly accountable. He also mentioned the Pan Am-Lockerbie case which happened in Libya, but the plane fell somewhere in Scotland and the award of damages was given in the United States. Thus, inasmuch as the intent is to protect the State by having a strict anti-terrorism law, he believed that there is also a need to protect the rights of the Philippine nationals. Senator Lacson agreed, but he pointed out that the provision on damages in the Revised Penal Code should be updated given the measly amounts given to victims, taking into consideration that damages should be dependent on the gravity of damage inflicted on the victims of terrorism. He said that they would have to study if amending Article 100 or 33 of the RPC on civil liability could be done through the bill under consideration.

Citing Section 42 of the bill, Senator Tolentino pointed out that the provision allows the Anti-Money Laundering Council to freeze and forfeit the funds, banks deposits, placements, trust accounts, assets and property of whatever kind and nature belonging to a person suspected or charged of any crime defined and penalized under the provisions of the bill. He suggested that instead of freezing the accounts, the money should be earmarked for funds that would be awarded to the victims under a civil liability regime.

Asked if it would be possible to include an amendment that would allocate frozen funds and assets to answer the needs of the victims and their families, as well as the livelihood and education of

the children of those who lost their lives, Senator Lacson clarified that freezing is different from confiscation. He explained that when the criminal aspect of the case proceeds and a final conviction is obtained, confiscation may proceed.

To the comment that a civil case might finish earlier than a criminal case, given the required quantum of proof, so the damages could be awarded and the fund could come from the frozen assets, Senator Lacson agreed that the amount could be granted by the court prior to the conclusion of the criminal case, as long as due process was followed. Thus, Senator Tolentino stated that he would propose an amendment to that effect at the proper time.

Asked which court would handle a case of terrorism supposing the planning, execution and hideout were in different places, Senator Lacson stated that special courts would be established specifically for the cases covered by the bill, similar to heinous crime courts.

Senator Tolentino recalled the killing of former Representative Edgar Mendoza, the circumstances of which were as follows: he was a resident of Batangas; he went to visit some clients in Calamba City to collect some legal fees; his body, together with his driver and one security aid, was found burned in Tiaong, Quezon; and there were reports that the planning was done in the National Bilibid Prison in Muntinlupa. He pointed out that venue is jurisdictional in criminal cases; thus, if a case is filed in a court which has no jurisdiction over it, it could be dismissed. Senator Lacson said that under the principle of continuing crime, any of the special courts in those areas mentioned may acquire jurisdiction. But Senator Tolentino stated that if a terrorism case could be filed anywhere where the essential elements of the crime were committed, there is a need to re-evaluate and revisit the plan to have a special court, because there may be some nuances and details that could be acquired from the place where the essential elements of the terroristic act were hatched.

Senator Lacson said that special courts are jurisdictional because the Supreme Court may create special courts in different areas; hence, jurisdiction may also apply in case of a special court.

Senator Tolentino asked Senator Lacson if he would agree to a provision that a terrorist act may be declared as a transitory crime similar to what was contemplated in R.A. No. 8042 or the Migrant



Workers and Overseas Filipinos Act of 1995 when it provided that a criminal action arising from illegal recruitment shall be filed not only in the Regional Trial Court (RTC) of the province or the city where the offense was committed but also where the offended party actually resides at the time of the commission of the offense.

Senator Lacson said that there are factors to be considered, such as the security of witnesses, some of whom may be under threat in the areas where they are appearing. It is for this reason, he said, that special courts are necessary to be created for purposes of offenses that violate the anti-terrorism act. He then adverted to Section 46 of the bill, to wit:

*SEC. 46. TRIAL OF PERSONS CHARGED UNDER THIS ACT. - "ANY PERSON CHARGED FOR THE COMMISSION OF TERRORIST ACT, AND THE PREPARATORY ACTS PUNISHED UNDER THIS ACT SHALL BE TRIED IN SPECIAL COURTS CREATED FOR THIS PURPOSE. IN THIS REGARD, THE SUPREME COURT SHALL DESIGNATE CERTAIN BRANCHES OF THE REGIONAL TRIAL COURT AS ANTI-TERROR COURTS WHOSE JURISDICTION IS EXCLUSIVELY LIMITED TO TRY VIOLATIONS OF THE PROVISIONS OF THIS ACT."*

Senator Tolentino said that there must be a functioning judicial body even in places where terrorist plots were hatched. Citing the recent experience with the Maguindanao massacre, he lamented that even if all of the witnesses were brought to Bicutan during the hearings, and a special court was created, it still took several years to be concluded. He opined that even with the special court, it would still be hard for a competent judge, especially with death threats, to conclude the case when the available witnesses and pieces of evidence would be coming from far-flung areas.

Senator Lacson then cited the second paragraph of Section 46' to wit:

*PERSONS CHARGED UNDER THE PROVISIONS OF THIS ACT SHALL BE ALLOWED TO REMOTELY APPEAR*

AND PROVIDE TESTIMONIES THROUGH THE USE OF VIDEO-CONFERENCING AND SUCH OTHER TECHNOLOGIES NOW KNOWN OR MAY BE HEREAFTER BE KNOWN TO SCIENCE AS APPROVED BY THE SUPREME COURT.

Senator Tolentino said that during the period of amendments, he would hasten to include the transitory nature of a terrorist act similar to the provisions in Batas Pambansa Blg. 22 where the offended party has several options where to file the case, such as where the check was drawn, where the check was issued, where the check was delivered, and where the check was dishonored. He agreed with Senator Lacson that in terrorism, the ability to project and instill fear and terror was not limited to a certain locality; it could be through the use of social media which could be done in a split-second, nationwide. He believed that the effects of a terroristic act would not just be felt in the place where a bombing was committed as its effect could be felt even in the far-flung areas or islands of the country.

Senator Lacson said that he would be open to consider the proposed amendments of Senator Tolentino at the proper time.

As regards the principle of extraterritoriality, Senator Tolentino opined that this was one area where the law might have some difficulty and would probably even reach the Supreme Court at some point in time because as proposed, even if a terroristic act was initiated abroad, in or outside the Philippines, regardless of its stage of execution, any person may be held liable.

Senator Lacson explained that it was pursuant to the principle in law called *aut dedere aut judicare*, which refers to an obligation to extradite or prosecute. He said that the principle was contained in the United Nations Security Council Resolution No. 1373 in 2001, paragraphs (2-E) and (3-D); United Nations Security Council Resolution No. 1456 in 2003, paragraph (3); and the United Nations Security Council Resolution No. 1566 in 2004, paragraph (2). He explained that the principle expresses the common objective of states in fighting serious forms of crime, including terrorism. He said that if the law is challenged before the Supreme Court, the Committee would have enough jurisprudence, even resolutions issued by the United Nations, to support the contention that the principle of territoriality can apply.



On whether he was saying that even if the terroristic attack was planned and hatched in Singapore, the perpetrators and conspirators would still be held liable under the law, Senator Lacson replied in the affirmative.

Senator Tolentino indicated that at the proper time, he would propose an amendment to include in the definition of terrorist acts, psychological violence under RA 9262, otherwise known as the Anti-Violence Against Women and Children Act of 2004 as applied to the case *AAA, petitioner vs. BBB, respondent*; G.R. No. 212448 dated January 11, 2018 with Justice Tijam as *ponente*. He explained that the aforementioned case was about a couple from Pasig; the husband, who worked as an OFW, was found by the wife of having committed adultery with a Singaporean woman named Lisel Mok; the wife sued the husband but he said that the court could not have jurisdiction over him because he was in Singapore; however, the Court said that psychological violence is the means employed by the perpetrator while mental anguish or emotional anguish is the effect caused to or damage sustained by the affected party; therefore, it is an element of the crime and the Pasig Regional Trial Court has jurisdiction."

On whether he would agree that acts of terror are forms of psychological violence because while a person may not be the one who was directly hit by a bomb, or may not be a family member upon whom violence was committed through a terrorist act, there is a psychological violence instilled in society in general which is more than enough to produce fear among the members of the populace, Senator Lacson explained that a terrorist act should be direct and aimed more to the public at large or to the State. He said that the example cited by Senator Tolentino appeared to be more personal, and he feared that over-extending the coverage of the anti-terrorist act might be struck down by the Supreme Court.

Senator Tolentino explained that he used the case to show how psychological violence was tantamount to eliciting fear. He recalled that when he was a mayor, during the height of the Wakaoji case, the kidnappers showed a picture of Mr. Wakaoji's hand where it appeared that one of his fingers was cut but in reality, it was actually merely folded; however, the image was enough to sow fear. He said that violence need not be physical, it could be

psychological. He said that for purposes of enhancing the extraterritoriality concept, if psychological violence was included, perhaps there was a chance that the law could surmount any constitutional challenge since the Supreme Court already decided on the matter.

Senator Lacson adverted to Section 2 of the bill, the Declaration of Policy, to wit:

It is a declared policy of the State to protect life, liberty and property from acts of terrorism, to condemn terrorism as inimical and dangerous to the national security of the country and to the welfare of the people, and to make terrorism a crime against the Filipino people, against humanity, and against the law of nations.

He stressed that the principle of territoriality was being applied because terrorism is a crime against humanity. He expressed concern that including psychological effect on a private person or individual might be over-extending the coverage of the proposed measure.

Asked by Senator Tolentino whether a video shown to the family members of a kidnap victim wherein the victim is about to be beheaded and asking for help from the President and the government, would have an effect not only to the family members but to society at large, Senator Lacson replied that there was a need to refer back to the intent and purpose of the commission of that particular act. He said that Section 4 defines the terrorist acts; if an act is outside the definition of the acts enumerated therein and the effect on an individual or group of individuals does not have a bearing as to its intent and purpose, the act or action may be difficult to justify.

Asked by Senator Tolentino whether the bill seeks to primarily protect the State or the people, Senator Lacson said that it intends to protect both State and its people. However, he said that the purpose of the acts by its nature and context must be committed to intimidate, put in fear, force or induce the government. He said everything depends on the circumstances bound by the intent and purpose of such acts and the appreciation of evidence pertaining to the intent of the act as committed.

Asked whether the Philippines would have a jurisdiction over a terrorist who planned to attack the



country while in Indonesia, Senator Lacson stated that while the terrorist is outside of the country, he cannot be charged, until and unless he comes to the Philippines.

Senator Tolentino stated that seldom would a terrorist stand alone and that he must be a member of an organization that is well-funded and based somewhere as its corporate residence. He said that at the proper time he would propose an amendment to strengthen the civil liability regime that would enable Philippine authorities or offended parties to file a case against a foreign national, group or corporation based somewhere, a provision that is consistent with Section 15, Rule 14 of the Rules of Court which states: "When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to, or the subject of which is, property within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent xxx, the court could summon the defendant either by publication in a newspaper of general circulation or by sending a copy of the summons to the last known address of the defendant."

Noting that several U.S. courts have already awarded damages to the victims of 9/11, Senator Tolentino inquired if it was possible to include in the bill a provision that would enable the Philippines government to acquire jurisdiction over a foreign terrorist's identified properties and assets abroad through a civil process. In reply, Senator Lacson stated that Philippine authorities or the offended parties could only run after identified properties or assets of terrorists found in the country as provided in the bill. He recalled that when Blanquita Pelaez sued him in the United States for some supply contract that he did not implement at that time for being onerous and grossly disadvantageous to the Philippine National Police, he invoked that the service of summons be coursed through a Regional Trial Court which would, in turn, issue the summons to him, which never happened.

Senator Tolentino recalled that in the previous session, he questioned why the Philippine government was not a signatory to the Hague Service Convention which was enacted and entered into by 120 nations in November 1965. He said that the Convention allows the signatory to avail of the transnational service of processes wherein summons could be sent through the Attorney-General of the United States who will accept it and deliver it to the

defendant. He said that Japan, being a member-country, availed of such services when it summoned the president of Nissan. He believed that the Senate Committee on Foreign Relations and the Department of Foreign Affairs could help to untangle and find out why the Philippines was not a member of such a very important accord when matters such as civil, commercial and acts of terrorism are current global concerns.

Finally, Senator Tolentino said that the bill could be strengthened through the civil regime, and that other existing measures could be added up to buttress the provisions of the proposed bill. He then expressed his support for the measure which he describes as one of the more vital legislative measures that would be passed in the 18<sup>th</sup> Congress.

## **SUSPENSION OF SESSION**

Upon motion of Senator Zubiri, the session was suspended.

*It was 4:07 p.m.*

## **RESUMPTION OF SESSION**

At 4:13 p.m., the session was resumed.

## **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1083**

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

## **CHANGE OF COMMITTEE REFERRAL**

Upon motion of Senator Zubiri, there being no objection, the Body approved the change of referral of Senate Bill No. 147 (establishment of instructional gardens in elementary and secondary schools) to the Committee on Agriculture, Food and Agrarian Reform as the primary Committee and to the Committee on Basic Education, Arts and Culture as the secondary committee.

## **SPECIAL ORDER**

Upon motion of Senator Zubiri, there being no objection, the Body approved the transfer of Committee Report No. 34 on Senate Bill No. 1296 from the Calendar for Ordinary Business to the Calendar for Special Orders.



## COMMITTEE REPORT NO. 34 ON SENATE BILL NO. 1296

Upon motion of Senator Zubiri, there being no objection, the Body considered, on Second Reading, Senate Bill No. 1296 (Committee Report No. 34), entitled

### AN ACT ESTABLISHING THE PHILIPINE ENERGY RESEARCH AND POLICY INSTITUTE, DEFINING ITS OBJECTIVES, POWERS, AND FUNCTIONS, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

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

The Chair recognized Senator Gatchalian for the sponsorship.

### SPONSORSHIP SPEECH OF SENATOR GATCHALIAN

Senator Gatchalian, as chairperson of the Committee on Energy, rose to sponsor Senate Bill No. 1296 under Committee Report No. 34, otherwise known as the “Philippine Energy Research and Policy Institute Act.”

*Following is the full text of Senator Gatchalian’s sponsorship speech:*

During the time I served as the chairman of the Senate Energy Committee of the Seventeenth Congress, I had the privilege of studying the best case practices of well-performing energy sectors in developed countries across the world. One element they had in common was the presence of academe-based energy institute.

Energy is one of the most research-intensive fields within the public policy arena, characterized by rapidly evolving technologies which redefine the parameters of the game at a blistering pace. Institutes such as the Stanford Precourt Institute for Energy of Stanford University, the Solar Energy Research Institute of Singapore at the National University of Singapore, and the Energy Institute at Haas Berkeley in the University of California, Berkeley engage in research and development, training and education, and policy development. These independent, multidisciplinary, and collaborative

institutions serve as the backbone for innovation and progress in the energy sectors of their host countries. These institutes play essential roles in the field of energy by contributing to knowledge creation and industry development, disseminating policy recommendations backed by rigorous empirical evidence, and training the students of today to become the key decision makers of tomorrow.

Unfortunately, no such institute exists in the Philippines at present. Hence, the bill I am sponsoring today—Senate Bill No. 1296 under Committee Report No. 34—seeks to establish the Philippine Energy Research and Policy Institute (PERPI). PERPI will perform critical research and policy development and capacity building work to steer the Philippine energy sector towards greater energy security, equity, and sustainability. We envision PERPI to stand at the forefront of Philippine energy research and policy development as an institution solely devoted to these pursuits.

To be established at the country’s national university — the University of the Philippines — PERPI will serve as an independent body which will undertake multidisciplinary research, explore and develop cutting-edge technologies, and provide autonomous and objective policy output for the benefit of private and public energy players alike. PERPI will be a think-tank, a laboratory, an innovation incubator, and a sparring partner of the government energy policy apparatus, all in one. As a publicly-funded institute, PERPI will be charged with ensuring that the results of its energy research and policy development activities can be utilized to craft energy sector reforms for the benefit of the national economy and the lives of the Filipino people.

To achieve the worthy motivations for its establishment, PERPI will exercise the following functions:

1. Formulate and conduct research and development on energy, energy technology, public policy issues in energy markets, and other pressing issues and problems all backed by rigorous empirical evidence;
2. Establish linkages with government agencies, other universities, and private and public institutions on existing energy research and policy studies;
3. Establish research and policy development programs and capacity building trainings on energy;
4. Enhance the masters and doctoral pool of researchers and faculty in the field of energy;



5. Establish local and foreign linkages in energy research and policy development; and
6. Serve as the repository of all energy-related researches, studies, and data to be generated by the institute and other academic, public, and private groups, organizations, and institutions.

The functions of the Institute will be carried out by an illustrious team of seasoned academicians and energy sector professionals under the direction of a full-time executive director, who will be a recognized expert in energy policy and research development. Further guidance will be given by the Executive Board, composed primarily of representatives from the academe and the private sector from the fields of engineering, law, science, statistics, economics, and public health.

To fund PERPI's research, a special account for energy research shall be established, which will recognize and accept grants, contributions, and donations for such purpose, while PERPI's operations shall be initially funded through a budget of P100 million.

It is my sincere belief that the development of a stable, affordable, and sustainable energy supply will be critical to meeting the country's ambitious long-term socio-economic goals. The research output of the Philippine Energy Research and Policy Institute, in turn, will be essential to turning this vision into a reality.

With this in mind, I urge you to support the passage of this legislation.

#### **MANIFESTATION OF SENATOR TOLENTINO**

Senator Tolentino manifested his support for Senate Bill No. 1286 through the following statement:

I would like to cast my support to this very much-needed piece of legislation for our country to achieve energy security and self-sufficiency which is a key item in the Philippine Development Plan of 2017 to 2022. This is very important because energy consumption drives economic growth and is a key input for socio-economic development, in particular, access to clean energy is considered vital for modern living and necessary element for all production sectors to function, even during crisis and calamities.

Our country's self-sufficiency program, however, remains to be a challenge as we

continue to rely heavily on fossil fuels, such as natural gas and coal, an important energy source.

As a result, Philippine electricity prices are the highest in Southeast Asia at roughly P 0.20 per kilowatt or P10 per kilowatt. There is also much more to be done in our renewable energy sector which has been officially institutionalized only in 2008 with the passage of the Republic Act No. 9513 or the Renewable Energy Act.

However, the root of the matter is the scarcity of energy research and policy programs in the country, especially that we are now in the era of rapidly-growing scientific and technological discoveries. Resolving our country's energy situation will not just require a single solution, but a multi-disciplinary approach that will cut across energy regulations and fiscal constraints.

With the passage of this bill, this humble Representation believes that not only the future of energy but the energy sector of the present will be further empowered as we continue to strive towards self-sufficiency for the good of the whole country.

I congratulate the good sponsor, Sen. Win Gatchalian.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1296**

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

#### **ADJOURNMENT OF SESSION**

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

*It was 4:24 p.m.*

I hereby certify to the correctness of the foregoing.

*Myra Marie D. Villarica*  
**ATTY. MYRA MARIE D. VILLARICA**  
*Secretary of the Senate*

Approved on January 28, 2020

*J. L. J. A.*