REPUBLIC OF THE PHILIPPINES

Senate

Pasay City

Journal

SESSION NO. 85

Tuesday, June 3, 2008

FOURTEENTH CONGRESS
FIRST REGULAR SESSION

SESSION NO. 85
Tuesday, June 3, 2008

CALL TO ORDER

At 3:05 p.m., the Senate President, Hon. Manny Villar, called the session to order.

PRAYER

The Body observed a minute of silent prayer.

ROLL CALL

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

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

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

Senators Angara, Cayetano (A), Escudero, Lapid, Madrigal and Roxas arrived after the roll call.

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

DEFERMENT OF APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 84.

REFERENCE OF BUSINESS

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

BILL ON FIRST READING

Senate Bill No. 2359, entitled

CLIMATE CHANGE DRINKING WATER ADAPTATION RESEARCH ACT

Introduced by Senator Miriam Defensor Santiago

To the Committees on Environment and Natural Resources; and Finance

RESOLUTIONS

Proposed Senate Resolution No. 431, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ILLEGAL INFLUX OF INDIAN TOURISTS IN THE COUNTRY

Introduced by Senator Miriam Defensor Santiago

To the Committees on Justice and Human Rights; and Tourism

Proposed Senate Resolution No. 432, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT

AN INQUIRY, IN AID OF LEGISLATION, ON THE REPEATED USE OF MEDICAL DEVICES MADE FROM POLYVINYL CHLORIDE PLASTIC WHICH COULD BE DETRIMENTAL TO HEALTH

Introduced by Senator Miriam Defensor Santiago

To the Committee on Health and Demography

COMMUNICATIONS

Letters from Governor Amando M. Tetangco Jr. of the *Bangko Sentral ng Pilipinas,* dated 22 and 30 May 2008, respectively, submitting to the Senate the following:

The 2007 Report on the Implementation of Republic Act No. 9178, otherwise known as the Barangay Micro Business Enterprises (BMBEs) Act of 2002, pursuant to Section 14 of the Act;

To the Committees on Trade and Commerce; Local Government; and Ways and Means

and, The 2007 Report on the Implementation of Republic Act No. 7721, otherwise known as "An Act Liberalizing the Entry and Scope of Operations of Foreign Bank in the Philippines and For Other Purposes," pursuant to Section 13 of the Act.

To the Committee on Banks, Financial Institutions and Currencies

ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Pangilinan acknowledged the presence in the gallery of Bishops Teodoro Bacani and Broderick Pabillo, and members of Task Force *Mapalad, Ugnayan ng mga Nagsasariling Organisasyon sa Kanayunan* (UNORKA), Hacienda Yulo Farmers Alliance (HYFA), Araneta Farmers Association, Partnership on Agrarian Reform and Development Services (PARRDS), *Pambansang Kilusan ng mga Samahang Magsasaka sa Pilipinas* (PAKISAMA) and Agrarian Reform Now (AR NOW!).

Senate President Villar welcomed the guests to the Senate.

POINTS OF INFORMATION OF SENATOR DEFENSOR SANTIAGO

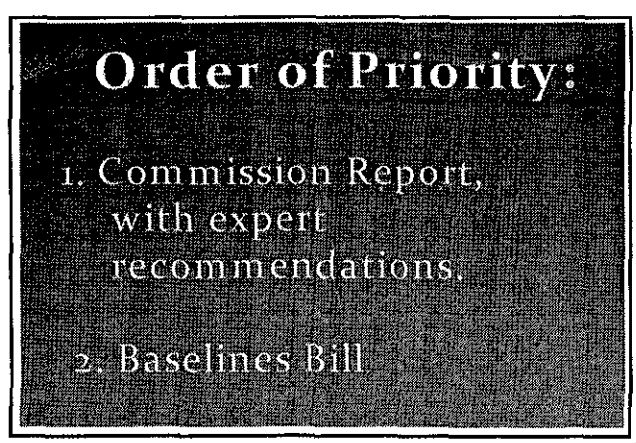
Senator Defensor Santiago informed the Body that she has circulated a committee report for signature of the Majority recommending the approval of the Japan-Philippine Economic Partnership Agreement (JPEPA), provided that it is accompanied by a supplemental agreement.

With respect to the status of the Renewable Energy bill, she said that as chair of the Committee on Energy, she appointed Senator Angara to defend the bill when she was compelled to leave for abroad; however, upon her return, she inquired from Senator Angara if she could already take over the defense of the bill but the latter told her that he would like to finish what he started.

On another matter, Senator Defensor Santiago stated that House Speaker Nograles has arranged for a live coverage of House plenary sessions to be aired on a cable TV channel and on the internet. She proposed that Senator Pangilinan conduct a feasibility study on this arrangement for Senate plenary sessions so that she could later make the proper motion based on his comments and report.

PRIVILEGE SPEECH OF SENATOR DEFENSOR SANTIAGO

Preliminarily, Senator Defensor Santiago showed a slide presentation entitled, "Order of Priority":



Prejudicial Question:
Is RP party to UNCLOS?

Maritime Zones Under RP Law

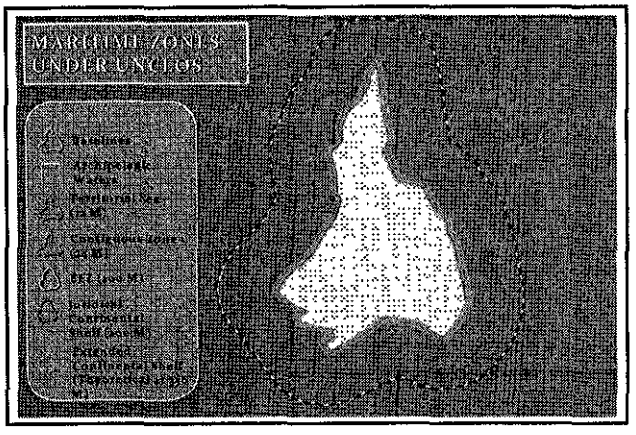
1. Internal Waters – absolute sovereignty
2. Territorial Sea (Paris Treaty) – 221.8 miles (West) and 283.18 miles (East) under Treaty of Paris/RA 5446
3. Contiguous Zone – absolute sovereignty
4. Exclusive Economic Zone (above seabed) – absolute sovereignty (Constitution)
5. Continental Shelf (underwater) – absolute sovereignty (Petroleum Act)
6. Extended Continental Shelf (ECS) – absolute sovereignty (Petroleum Act)

RP made impermissible reservation to UNCLOS, denounced by 8 states

Maritime Zones Under UNCLOS

1. Archipelagic Waters – limited sovereignty
2. Territorial Sea –12 miles
3. Contiguous Zone –24 miles
4. Exclusive Economic Zone (above seabed) – 200 miles
5. Continental Shelf (underwater) – 200 miles
6. Extended Continental Shelf (ECS) – up to 350 miles

ICJ or ITLOS, not Philippine Congress or Supreme Court, will decide if RP valid party to UNCLOS.



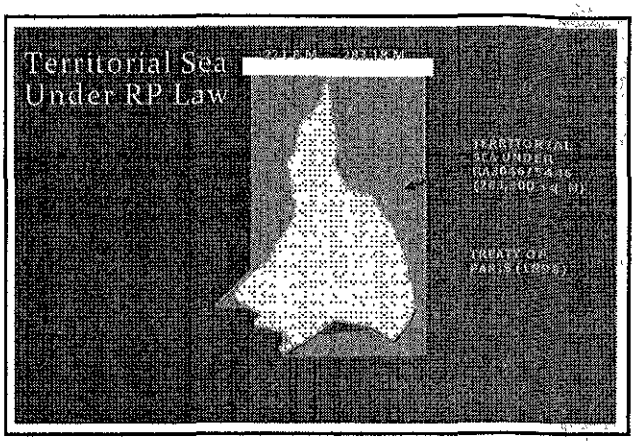
Conflicts:

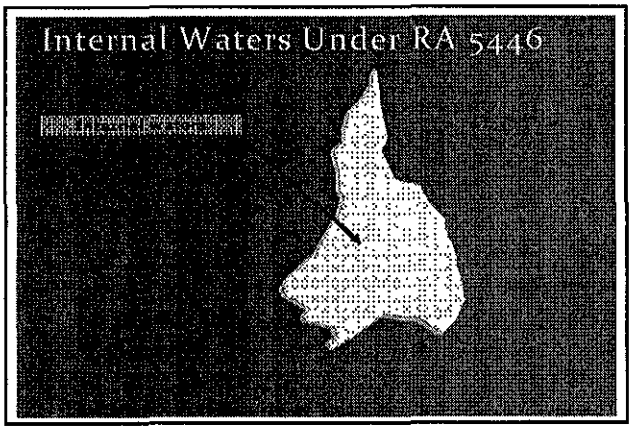
- RP Law vs. UNCLOS
- Congress Needs Expert Report and Recommendations:
  1. Justice Feliciano
  2. Dean Magallona

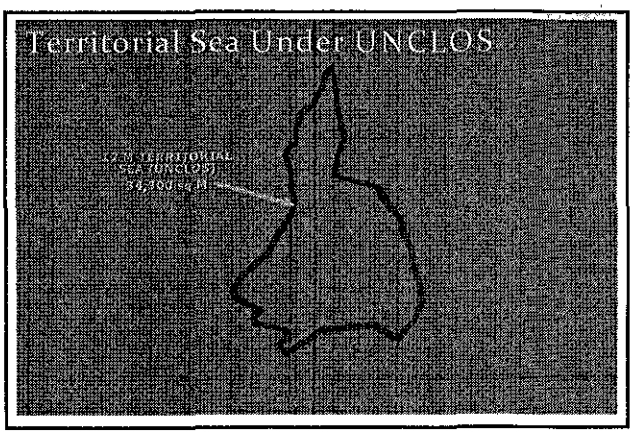
RP Law: Internal waters = Absolute Sovereignty of Coastal State

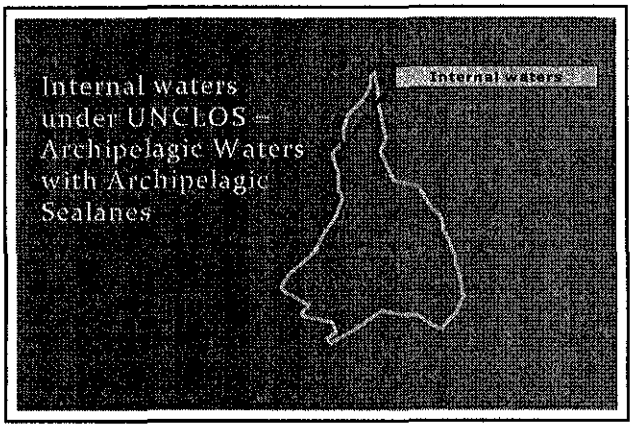
UNCLOS Internal Waters = Archipelagic Waters

? Right of Archipelagic Sealanes Passage
? Right of Innocent Passage
? Right to Fish by Traditional Foreigners









Difference:

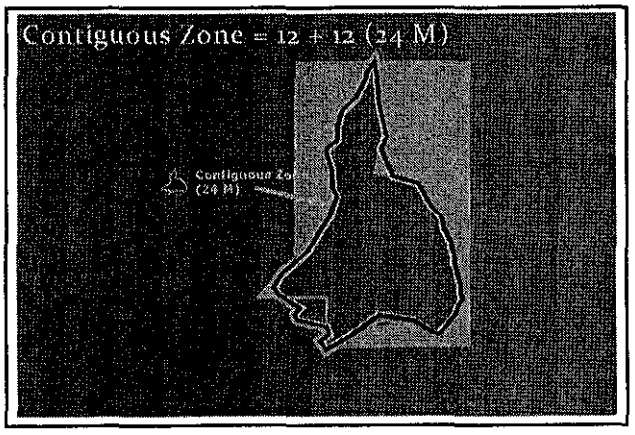
- Between Treaty of Paris and UNCLOS = 229,000 sq. miles
- Treaty of Paris – 263,300 sq. miles
- UNCLOS – 34,300 sq. miles

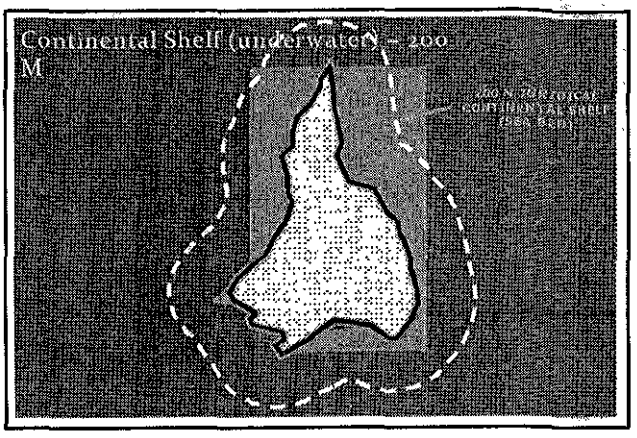
Territorial Sea:

- RP Law (Paris Treaty)
  West – 221.8 miles
  East – 283.18 miles
- UNCLOS – 12 miles

Contiguous Zone:

- RP Law – Absolute Sovereignty
- UNCLOS – Limited jurisdiction over customs, fiscal, immigration, or sanitary laws.



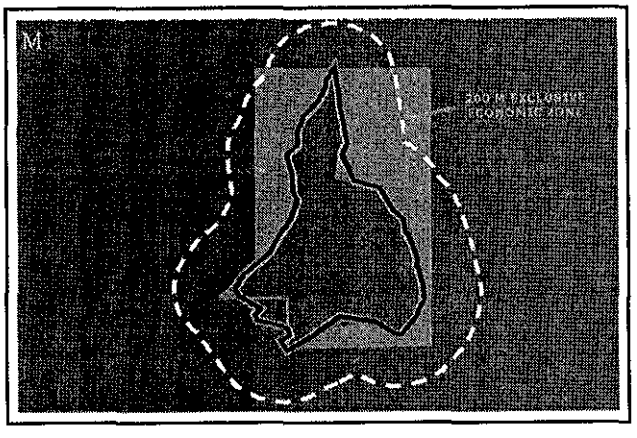


Exclusive Economic Zone

- RP Law – Absolute Sovereignty
- UNCLOS – Limited sovereignty over exploration, exploitation, conservation and management of natural resources, whether living or non-living. Surplus catch goes to other states.

Extended Continental Shelf:

- State should file claim
- Overlaps with neighboring states

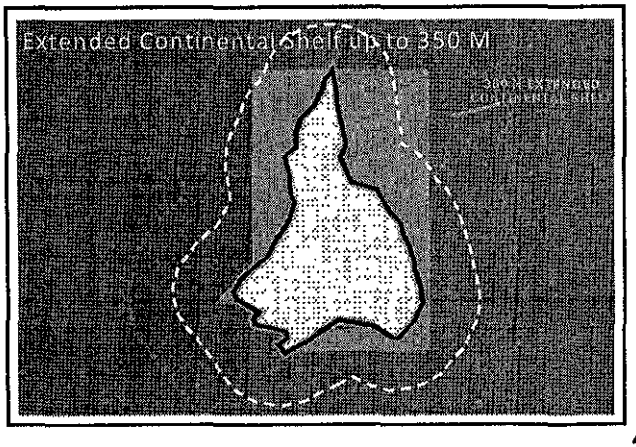


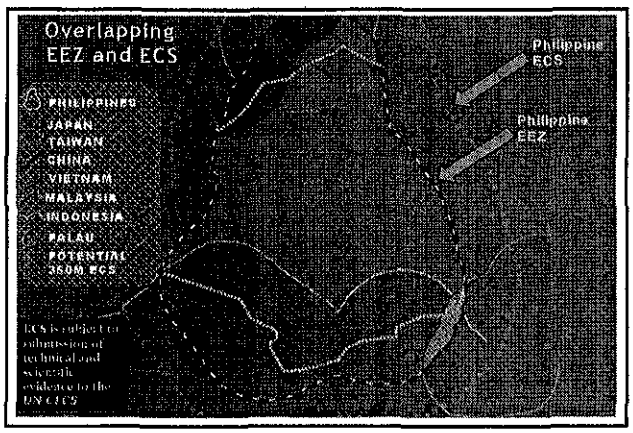
Extended Continental Shelf:

- UNCLOS – Limited sovereignty over the shelf for exploration and exploitation of natural resources. Surplus catch goes to other states.

Continental Shelf :

- RP Law – Absolute Sovereignty (Petroleum Act)
- UNCLOS – Limited sovereignty over shelf for exploration and exploitation of natural resources.





Baselines Bill:

- Small Difference in Length Between RP Law & UNCLOS
- BIG Difference in Sovereignty Between Internal & Archipelagic Waters

Deadlines:

- Commission Report – 31 December 2008
- ECS Claim – 13 May 2009

Order of Priority:

1. Commission Report – 6 months
2. Baselines bill – 4 months

Enough Time:

Plenary debate on baselines bill = 4 months (January to April 2009)

Legal Issue:

- Is RP an Archipelagic State Under UNCLOS?
- If Yes: Internal Waters Become Archipelagic Waters

Thereafter, Senator Defensor Santiago delivered the following speech on a point of collective privilege as it affects the procedure of the Senate:

ORDER OF PRIORITY SHOULD BE:
COMMISSION REPORT,
THEN BASELINES BILL

In my main sponsorship speech, which I delivered earlier, I submitted the humble proposal that in the proper scheme of things, the order of priority should be:

- First, create a Joint Congressional Commission on National Territory with the mandate to submit a Partial Report with Recommendations by 31 December 2008 or, as I have indicated, by an earlier date;
- Second, using the Commission Report as a background paper, the Senate and the House of Representatives could then spend at least four months or even longer– from January to April 2009 – to pass a new Philippine baselines bill. The resultant law will serve as the basis for filing the Philippine claim to an extended continental shelf (ECS) with the UN Commission on the Extended Limits of the

Continental Shelf, before the deadline of 13 May 2009.

So let me name the instigator of the alternative.

Former Solicitor General Estelito Mendoza, who now serves as consultant to the Commission on Maritime and Ocean Affairs (CMOA) headed by the executive secretary, has made a submission to me that this order should be reversed. The Mendoza Position is that we should work to pass a baselines bill first, and then create the joint commission. He is afraid that if we wait first for a commission report, we might not be able to meet the UN deadline. He does not explain why he thinks that the commission will be unable to meet its own deadline of December this year. It seems, to me, that some lawmakers might have been persuaded to adopt the Mendoza Position.

The Mendoza Position is based on the Philippine Constitution, Article II, Section 2, which provides: "The Philippines...adopts the generally accepted principles of international law as part of the law of the land...."

There is a problem when the person reading a legal document is merely literate and is not acquainted with the background or the specialized vocabulary of that particular provision. In international law, our Constitution has, in effect, adopted the incorporation theory, which means that our Constitution has automatically incorporated international law, on the level of a domestic statute. So, under this provision, what is a generally accepted principle of international law has the same level in our legal system as any law passed by Congress; and that is why, the rule of construction is, the later in point in time will prevail because the international principle is just like a law passed by the Philippine Congress and approved by the President.

It appears to me that in reading this constitutional provision, Mr. Mendoza seems to take it for granted that the UN Convention on the Law of the Sea (UNCLOS) is a generally accepted principle of international law, and as such, is already part of our legal system. That is the problem when you read a specialized document like the Constitution in a pedestrian way, in the way that an ordinary literate person would read it. Reading the Constitution, I beg to inform this Assembly, is a skill in itself. That is why constitutional law is all of two subjects in law school, each one with three credits.

I humbly beg to differ from Mr. Mendoza. UNCLOS in its entirety is **not** a general principle of international law. Only some of its provisions, which codify existing customary international law, may be deemed to be generally accepted principles; the rest of its provisions are binding only on the state parties. And allow me very respectfully to inform you, it is a skill in itself to identify what is existing customary international law. We cannot just stand up and say, "under existing customary international law," the way we would stand up here and say "under the Civil Code" or "under the Penal Code." International law is a completely different discipline with different thinking, processes and vocabularies from domestic law.

Unfortunately for Mr. Mendoza, there is an open question on whether the Philippines is a valid party to the UNCLOS. The general rule is, a treaty binds only those who have consented to it, meaning to say, only the states that have ratified it. But is the Philippines a party to the UNCLOS, although it ratified that treaty? The question arises because during martial law, when the Philippines ratified the UNCLOS, it made what is called an impermissible reservation. That is to say, the UNCLOS has specific prohibition against making a reservation, yet the Philippines disobeyed that provision and made a reservation.

So, first, will someone who is an expert tell me what then is the effect of the reservation, which is impermissible, made by the Philippine government?

The general rule is that when a treaty, like UNCLOS, prohibits a reservation, if a state ratifies that treaty, but it makes the prohibited or impermissible prohibition, then that state is not considered a party to the treaty. It is very easy to understand even if based only on common sense.

Ipinagbawal ko na, ginawa mo pa rin, kaya wala ka na ngayong pakialam. Ayaw ka nilang pasamahin doon sa kanilang grupo, sa treaty nila.

It is important that, at least, eight states have denounced the Philippine reservation. And I repeat, our reservation was that our territorial sea is not merely 12 miles, as provided by UNCLOS, but all of 250 plus miles under the Treaty of Paris, and that provision appears in Philippine law.

That is why we were denounced by eight states. "Denounced" is a term of art in international law. As I explained earlier, it means that the state is saying, "We are not going to respect your reservation. As far as we are concerned, your territorial sea is only 12 miles. If you go

beyond that, we are going to sue you in an international tribunal."

These states are: the U.S., China, Vietnam, Australia, the former USSR, Byelorussia, the former Czechoslovakia and Ukraine. At the very least, these denouncing states have in effect declared that they will not respect the Philippine reservation. Not this Congress, and not the Philippine Supreme Court can decide this prejudicial issue. Only an international tribunal can decide it. But at worst, these denunciations mean that the Philippines is not a party to the UNCLOS because it made an impermissible reservation.

We all know that under Article VIII of the Constitution, the Supreme Court has the power to review final judgments of lower courts in all cases in which the constitutionality of a treaty is in question. Therefore, the Supreme Court has jurisdiction over the issue of whether UNCLOS is constitutional. In my slide presentation today, I showed that UNCLOS sometimes irreconcilably conflicts with the Philippine Constitution.

Hence, assuming that the Philippine Supreme Court will declare at least certain provisions of UNCLOS as unconstitutional, under the Vienna Convention on the Law of Treaties – since a Constitution is not a violation of an international treaty – if the Philippines is hypothetically a party to UNCLOS, then any other state party can sue the Philippines for treaty violation in an international tribunal, such as the International Tribunal for the Law of the Sea (ITLOS), or the International Court of Justice (ICJ). The Philippines is a state party to the statutes of both ICJ and ITLOS.

Hence, before we even start the plenary debate on the baselines bill, every senator should at least have basic background information on the principles of international law involved. Unlike the Civil Code or Penal Code, there is no Code of International Law. The two main sources of international law are international treaties and international custom. How a treaty affects non-parties, and how international custom develops, are entire fields of study in themselves. Books have been written about these particular questions. It would be foolish for a senator or a representative to stand up and say: "According to international law...." First, you have to prove why the principle is considered, what is called a peremptory norm of international law which is the term of art for generally accepted principle. The process of identifying the law is radically different from that followed in the process used in domestic law.

If we first educate ourselves in this manner, then we strengthen the Philippine chances of winning a case in an international tribunal. If we rush to approve a baselines bill without expert advice, we would be running a very high risk of losing a territorial dispute on maritime zones before an international tribunal. And by the way, if I am ever elected, despite the malicious effort of some, as Philippine national candidate to the ICJ, I am required to sit even if my own country is involved in the dispute.

In law, an expert is defined as: "A person who, through education or experience, has developed skill or knowledge in a particular subject, so that he or she may form an opinion that will assist the fact finder or the lawmaker." I humbly submit that an international law expert should have a graduate degree in international law from a world-class university renowned for its faculty in international law. He or she should have written well-respected books, papers, and articles on the subject. He should have been a highly respected professor of that subject in a prestigious university. And most important, he or she should be recognized as an expert by the international community. This recognition normally comes with invitations worldwide to deliver a paper on the subject at an international conference, all expenses paid, plus sometimes even an honorarium.

In 2000, I was included in the UN list of eminent and qualified experts in international law. I am a Doctor of the Science of Jurisprudence from the University of Michigan, almost always ranked as the No. 1 public university among the U.S. Top Ten. I studied international law for my doctorate under Prof. William W. Bishop, Jr., former judge of the Permanent Court of Arbitration, which was the original predecessor of the ICJ. I have been a fellow at Oxford, Cambridge, Harvard, and other universities. I have published several books and articles on international law, notably the textbook, *International Law, With Philippine Cases and Materials*, used in Philippine law schools. I have served with the United Nations High Commissioner for Refugees (UNHCR) in Geneva, in the capacity of an expert on international refugee law.

I have gone on all-expenses paid trips to several countries in Europe and Asia to deliver papers on international law. I was international law professor at the U.P. for some 10 years. Hence, I have some authority in identifying the Philippine experts on international law.

In my humble opinion, the foremost expert on international law, not only in the Philippines

and Asia but also in the entire world, is former Supreme Court Justice Florentino Feliciano. We have a genius in our midst but he never entered politics, that is why he is unknown. As a student in Yale, he was already coauthor with his professor, the famous Myres S. McDougal, on a famous book on the law of the sea. He served as judge of the Arbitral Tribunal of the World Trade Organization. At present, he serves as Philippine counsel in international tribunals in such cases as those involving the new NAIA Terminal 3.

The other internationally recognized expert is Dean Merlin Magallona, former dean of the UP law school, and former foreign affairs undersecretary.

I am certainly not aware that there are other Filipino experts of their caliber. There might be a certain number of self-proclaimed experts but I am not aware that the world recognizes them in that capacity.

The Philippine Congress needs experts such as Feliciano and Magallona to work full-time on a report with recommendations concerning the new Philippine baselines bill. As I said during the slide presentation, in terms of length, there is not much difference between the baselines under the present Philippine Baselines law, on the one hand, and the UNCLOS, on the other hand. But in terms of Philippine sovereignty over our maritime zones, there are very big differences between the two.

Feliciano believes that the limit of the Treaty of Paris do not constitute the boundaries of the Philippines but merely constitutes a description on how to locate Philippine territory. By contrast, Magallona believes that the Paris Treaty limits is worth a full study on whether it fixes the limits of our territorial sea as already provided by our present law and as provided in our reservation to our concurrence to the UNCLOS.

In the light of these positions by experts, the Mendoza position is fatally flawed. The first fatal flaw is: the assertion that the archipelagic state has sovereignty over the waters enclosed by archipelagic baselines. This is a fatal flaw because under UNCLOS, archipelagic waters are subject to, at least, three severe limitations on Philippine sovereignty, as I explained during my slide presentation, to wit:

- The right of innocent passage which includes "nuclear-powered ships and ships carrying or other inherent obnoxious substances." The right of innocent passage is even provided for warships;
- The right of archipelagic sealanes passage; and
- The right to fish by traditional neighboring countries.

The second fatal flaw of the Mendoza position is that it assumes that the drawing of straight archipelagic baselines is mandatory. We have already drawn those straight archipelagic baselines, but I just wish to point out parenthetically that even his view that this is mandatory is fatally flawed. I submit that this is simply wrong. UNCLOS speaks inpermissible, not compulsory, language by providing "an archipelagic State may – not 'shall' – draw straight archipelagic baselines." Why does UNCLOS make this proviso? Because, according to another provision of the UNCLOS, those straight baselines must observed a certain ratio or pro-portion between the land area and the sea area and there are some who will not meet that requirement. That is why they will be allowed to draw not straight but crooked archipelagic baselines.

In any event, my point is that contrary to Mr. Mendoza's position, it is not compulsory under UNCLOS for the Philippines to draw straight baselines, it is discretionary.

Therefore, the immediate question that faces us is whether we should follow the Mendoza Position when his main qualification in international law is that he is the only living member of the Philippine delegation that attended a series of conferences that preceded the UNCLOS.

The Philippine delegation was headed by former Sen. Arturo Tolentino who was an expert in Civil Law. It also included Justice Jorge Coquia who, at least, was an expert in International Law and in fact my coauthor of the book *Public International Law.*

It appears to me that we have to choose between the Mendoza Position, on the one hand, and the Committee Report of the Committee on Foreign Relations, on the other hand.

Now, I come to my point of collective privilege concerning the rules of the Senate.

The Committee Report was signed by 14 senators. That already constitutes not only majority of the Committee but even a majority of the Senate itself. It would be anomalous if 14 senators, which is more than the majority of the Senate, should still be overturned in plenary session. That would violate Section 24 of the Rules of the Senate: "A regular member of the

committee shall be presumed to have concurred in the report and *shall be precluded from opposing the same....*"

I beg to inform the Body that without benefit of an expert report with the corresponding recommendations, as chair of the Committee on Foreign Relations, I will not be able to defend adequately any kind of baselines bill. As the Philippine nominee to the ICJ, I will refrain from making any statements on record that might not reflect the studied expertise of an ICJ judge. Even the ICJ itself appoints experts to help it.

If this Senate decides to follow a reverse order of priority as recommended by the committee report, then we would be violating Section 24. Of course, we can change it anytime. But if we change that rule, then I can do the same thing to any other chair of any other committee delivering a sponsorship speech, which I might have already signed. Anyone else can do the same thing for that matter. Yet, if the impossible happens, another senator should be given the task of defending the baselines bill. Without the benefit of expert advice, I doubt very much if any such bill would stand scrutiny by an international tribunal.

In conclusion, the Mendoza Position raises the question of how UNCLOS should result in the amendment or repeal of certain provisions of no less than our Constitution. *Gusto niyang sundin ang sinasabi niyang* international law *ayon sa pagkakaalam niya ngunit kung gagawin niya iyon, ang resulta ay lalabagin ang ating sariling batas*, not only our Constitution, but also our other existing and valid laws such as the Philippine Baselines Law, the Petroleum Act, and other similar laws.

I beg to differ from the Mendoza Position because, instead of the questions that he raised on how to amend our Constitution and our maritime laws to accommodate UNCLOS, I raise instead the question: How should UNCLOS be interpreted so as to promote Philippine national interest?

Senator Defensor Santiago stated that she would not accept interpellations for the time being as she might be taking too much time of the privilege hour.

INTERPELLATION OF SENATOR ENRILE

Senator Enrile stated that he was one of those who filed a baselines bill that is pending in the Senate, but nonetheless, he said that he is open to the issue because this was the first time the baselines problem is being discussed thoroughly. He said that his only claim to knowledge of international law is that he took the subject as a law student and a full-year course under a professor who used to be the director of the Marshall Plan of Europe. Moreover, he stated that he has not practiced nor has he made extensive studies on international law.

Senator Enrile asked on the effect of the denunciation of the U.S., China, Vietnam, Australia, and Russia on the position of the Philippines as a state with its own definition of its territorial domain. If the Philippines were a party to the UNCLOS, he asked if the other state-parties would respect the territorial integrity of the Republic of the Philippines and, if so, under what international law must they do so.

Admitting that she is not a fully established expert on the principles involved, Senator Defensor Santiago replied that she could only offer her preliminary opinion on the matter, preliminary in the sense that she has reached them only after reading materials in her own library as she has not accessed the archives of foreign libraries or articles written in law journals all over the world.

As regards the consequences of a denunciation made by a state, Senator Defensor Santiago explained that under existing international law, the state that made the denunciation is entitled to ignore the reservation made by the other party, provided that it does so on solid grounds. She disclosed that the grounds raised by the eight denunciating states consist of the same issue, that is UNCLOS, in a specific provision, prohibits any reservation by any state party; therefore, according to the denunciating states, the Philippines' reservation is invalid and contrary to the explicit provision of the UNCLOS. Thus, she said that it is expected that the denunciating states would not respect the Philippines' territorial sea within the treaty limits of the Treaty of Paris as proclaimed by Philippine laws.

Disregarding the RP-US Mutual Defense Treaty, Senator Enrile asked if the U.S., China or Vietnam, may enter the Sulu Sea with its own naval contingent and pass through the Philippine internal waters without seeking its permission as a state. Senator Defensor Santiago replied that in international law, sovereignty of a state over its territory is absolute, thus, foreign vessels, even if they are party to the UNCLOS, cannot invoke such treaty when they invade Philippine

waters because a treaty applies only to a state that is a party to it; however, if the Philippines were a party to the UNCLOS, that means it has agreed that its absolute sovereignty has become limited because it is now obliged to grant the right of innocent passage to foreign vessels.

On the other hand, Senator Defensor Santiago stated that even if the Philippines were not a party to and is not bound by the burdens of UNCLOS, it could still enjoy certain rights which are provided by UNCLOS if these rights were already existing in customary international law at the time they were included.

Asked if the Philippines then is entitled to a territorial sea, Senator Defensor Santiago replied in the affirmative. However, she clarified that it is not necessarily the territorial sea that the Philippines claims which is the full international treaty limit of the 1898 Treaty of Paris. Likewise, she explained that based on customary international law, the country is also entitled to a contiguous zone and a 200-mile exclusive economic zone (EEZ). She said that while the right to navigate the waters within the 200-mile EEZ is part of the principle of *mare liberum* or of the open or high seas, the natural resources within those waters are no longer considered part of the high seas because they fall under the sovereignty of the coastal state. Moreover, she explained that even without an UNCLOS, the Philippines has the right to economically exploit within a 200-mile EEZ around the archipelago as well as the seabed within the so-called continental shelf because it has already become part of existing customary international law.

Asked why the Philippines had to get involved with UNCLOS in the first place, Senator Defensor Santiago said that the country, together with Indonesia, is one of the first proponents of the archipelagic doctrine in international law as it sought to expand its jurisdiction over its archipelago and surrounding maritime zones. However, she disclosed that the U.S. insisted that under the new archipelagic doctrine, internal waters must be transformed into archipelagic waters. She said that it was unfortunate that it was the Philippines that brought up the issue regarding internal waters during international conferences which caught the attention of the U.S. and led to its insistence on the concept of archipelagic waters.

Senator Enrile, however, pointed out that by virtue of the Treaty of Paris, the Republic of the Philippines is a successor of the rights of the U.S. which it ceded in 1946, over the land area and internal waters which Spain originally considered as its own. Senator Defensor Santiago disclosed that the issue was raised during the deliberations of the UNCLOS, and the reply of the U.S. and Spain, which also denounced the Philippines' reservation to the UNCLOS, is that they were using terms describing latitude and longitude merely as directions on how to locate Philippine land territory and not as a delimitation of Philippine maritime territory. She said that the statement was not made in good faith.

Senator Enrile agreed, stating that it was improper for the U.S. to make such a statement considering that it has a mutual defense treaty with the Philippines and that it promised to defend the Philippines if its territory is invaded. Senator Defensor Santiago added that the Philippines, then, would be the first state in the entire universe to have lost its boundaries if it does not observe the international treaty limits which seem to have been the boundaries of Philippine territory when it was sold by Spain to the U.S.

Senator Enrile recalled that when the U.S. entered into the Mutual Defense Treaty with the Philippines, it said that it would defend "metropolitan Philippines," but when the Spratlys issue was discussed, the U.S. said that it could not help because the Spratlys is not part of "metropolitan Philippines." He then stressed the need for the U.S. to explain what it meant by "metropolitan Philippines," as it would definitely open up the entire issue of RP-U.S. security relationships.

Senator Defensor Santiago disclosed that the issue of the Mutual Defense Treaty as an implicit recognition of the Philippines' international treaty limits was raised also during the UNCLOS conferences. She said that the reply of the U.S. found in its written denunciation was that the Mutual Defense Treaty is immaterial to the discussion. She lamented how a great world power like the U.S. can feel free to interpret its own actions and even its own treaty obligations simply by using legal argumentation that does not convince anybody except itself, but could get away with it.

If the Philippines has all the rights under international law over what it could obtain as a member of UNCLOS, Senator Enrile asked whether it would not be in its better interest to just denounce

the treaty and get out of it. Senator Defensor Santiago stated that it is better for a state to denounce a treaty from which it would not obtain any additional privileges and under which it would merely accept additional burdens.

Replying to another query, Senator Defensor Santiago affirmed that any intrusion by any foreign country to the Philippines' internal waters could be denounced as an act of war against the Republic of the Philippines. However, she cautioned that the Philippines would then be considered a maverick state. Likewise, she pointed out that the Philippines could argue the matter in an international tribunal that under the Vienna Convention, a peremptory norm of international law is a norm which no derogation is permitted. She stated that one of the peremptory norms which the experts have tried to enumerate is the norm of sovereignty over a state's national territory. Thus, she said that it is well within the rights of the Philippines to invoke a peremptory norm of international law, but it does not have the power to enforce its correct invocation of international law.

Senator Enrile believed that the country should improve its military capability since international law is nothing but the capacity of the strongest to enforce its will. Senator Defensor Santiago stated that this would become the end line of international law, no matter how much it is rationalized by the experts, pointing out the problem that international law is not enforced by any Supreme Court of the world. While the Philippines could place itself under obligation to the International Court of Justice (ICJ) or under the International Tribunal for the Law of the Sea, she said that this could be done only if it makes a submission of jurisdiction under the so-called optional clause. If the Philippines obtains a favorable judgment, she said that the question is how the ICJ is going to enforce its judgment or how the Philippines, as an interested and victorious party, is going to maintain its judgment. She expressed hope that the experts would tell the Chamber what the decision of an international tribunal would likely be. Senator Enrile reiterated that the only way to enforce a country's right is to improve its military capability.

At this point, Senator Defensor Santiago stated that she would be abusing the privilege hour if she answer more questions. Thus, she said that she would wait for her own item to be called in the agenda as already published.

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

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

AN ACT ESTABLISHING THE PRE-NEED CODE OF 2008.

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

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

SUSPENSION OF SESSION

Upon motion of Senator Roxas, the session was suspended.

It was 4:25 p.m.

RESUMPTION OF SESSION

At 4:29 p.m., the session was resumed.

WORKING DRAFT

Upon motion of Senator Angara, there being no objection, the Body adopted the version of the bill as of June 3, 2008 as the working draft.

Thereafter, he sought leave to present the rest of the proposed individual amendments which the Committee accepted.

ZUBIRI AMENDMENT

On page 4, on behalf of Senator Zubiri, as proposed by Senator Angara, there being no objection, the Body approved the deletion of lines 5 to 16.

PIMENTEL AMENDMENT

On page 14, line 9 to 17, on behalf of Senator Pimentel, Senator Angara proposed the insertion of a new Section 22 to read as follows:

SEC. 22. *RECOVERY OF INVESTMENT.* – THE PLANHOLDER MAY INSTITUTE THE

NECESSARY LEGAL ACTION IN COURT TO RECOVER HIS/HER INVESTMENT IN THE PRE-NEED COMPANY, IN CASE OF ITS INSOLVENCY OR BANKRUPTCY.

HOWEVER, IN CASE THE INSOLVENCY OR BANKRUPTCY IS A MERE COVER-UP FOR FRAUD OR ILLEGALITY, THE PLAN-HOLDER MAY INSTITUTE THE LEGAL ACTION DIRECTLY AGAINST THE OFFICERS AND/OR CONTROLLING OWNERS OF THE SAID PRE-NEED COMPANY.

Senator Angara explained that the new provision would introduce the well-known principle in corporate law that one could pierce the corporate veil to go against the officers and dominant shareholders in case of management fraud.

Asked by Senator Roxas if the investment to be recovered is the amount paid for the pre-need plan and not the investment in the company, Senator Angara said that it refers to the payment for the plan. He clarified that the word "investment" should be understood in relation to planholders and not to stockholders.

As to the second paragraph of the new section, Senator Roxas pointed out that before a planholder can institute a legal action against the officers or dominant stockholders of the company, the fraudulent act must be proven first. Senator Angara said that to avoid multiplicity of suits, the planholder can produce proof of fraudulent disposition of assets or illegal accounting practices resulting in the personal benefit of the officers or dominant stockholders of the pre-need company and thereafter, sue them through a separate independent legal action.

Submitted to a vote and there being no objection, the amendment was approved by the Body.

INQUIRIES OF SENATOR ROXAS

Senator Roxas noted that the nature of a pre-need plan in the bill tried to strike a balance between a bank deposit, on the one hand, and a speculative stock investment, on the other, but tended to lean towards the former. He pointed out that at present, a bank deposit is insured up to P250,000 but there are prudential measures as to what banks are allowed to do with the deposits that are entrusted to them, but a stock investment is essentially the lookout of an investor who could lose all his money because there are no guarantees or safety nets except for a full disclosure on the part of the company upon which an investor bases his decision.

Senator Angara confirmed that the Committee tried to strike a balance between an insurance and a security because the pre-need industry is a unique and indigenous development in the Philippines and as such it should be treated both as a security and as an insurance. He explained that since it partakes of the securities aspect, the requirements of full disclosure, licensing of salesmen, and licensing of product under the Securities Act must be imposed; and since it also partakes of some insurance aspects, the Committee provided for a reserve or trust fund including prudential measures that are normally applied to banks, like the conflict-of-interest rule and fit-and-proper qualifications for directors, among others.

Senator Roxas stated that in securities, a sale is made pursuant to a prospectus that contains full disclosure. But Senator Angara pointed out that the pre-need concept in the bill partakes of both securities and insurance. He opined that a prospectus is not required but there will be a brochure containing some mandatory disclosure, as prescribed by SEC, under the implementing rules and regulations (IRR).

Senator Roxas stated that one of the major disclosure items that is always contained in the sale of any security is the "risk factor page" which is found in the first two or three pages of the prospectus. In response, Senator Angara cautioned against over-regulating the industry, as he explained that the decision to place the requirement of brochure in the IRR is to make sure that no unnecessary burden or expense is imposed upon the industry. Senator Roxas countered that it is not an additional burden because the brochure merely states who are behind the product being offered, the officers of the firm, its trustee bank, and the risk factors.

Asked by Senator Angara what normal risk factors are enumerated in a prospectus, Senator Roxas replied that a prospectus could state, among other things, that the firm is making its initial public offering.

At this point, Senator Angara asked Senator Roxas to provide the Committee with a sample prospectus as he expressed hope that it would not delay the passage of the bill any further. Senator Roxas gave assurance that there was no intent whatsoever to delay the passage of the measure.

To Senator Roxas' contention that given the nature of each of the pre-need plans, certain risk factors may be disclosed, Senator Angara stated that the capital requirement itself is a reflection of the risks in each product being sold. Senator Roxas maintained that requiring a specific capital does not give the assurance that the consumer of the product is adequately being informed of the risks of the product he is buying. Senator Angara reasoned that it is not necessary to state and identify in each brochure the risks involved because what the consumer wants is an education plan that will ensure that the college tuition of his child will get paid. Besides, he said, the plan buyer should not be expected to have sophisticated knowledge about investments.

But Senator Roxas stressed that Juan de la Cruz requires as much disclosure as possible because he may not be aware of the risks when he purchases a financial instrument. In this instance, he said, the risk for the pre-need company selling an education plan has to do with earning a sufficient return so the policy could be redeemed and such risk should be part of the information supplied to the consumers. Senator Angara reiterated that the bill is a "hybrid security" as it is half-security and half-insurance and necessary rules are still being evolved to fit this type of investment.

Senator Angara disclosed that existing IRR brochures include a statement on the required trust fund with the required specific percentage contribution; and the trustee banks. Unless it is an investment in pure security, he said, there are no other disclosures needed. He maintained that there will always be risks involved and despite stringent banking rules and regulations, even big banks share the risk of collapsing. He believed that the proposed Act should not impose stringent rules on an industry which has become the only hope for some people to send their children to school, and for others to have pension money later in life or services when they die. He warned that preparing a prospectus is one of the lucrative practices for a lawyer but for the firm, it entails a very high expense. At this point, he asked Senator Roxas what factors should be disclosed in each of the education, pension and life plans.

To the contention that the SEC would be in a better position to determine the risk factors involved in the purchase of pre-need plans, Senator Angara pointed out that the requirement for pre-need firms to submit other data as required by the SEC would be sufficient for the purpose.

To the suggestion that the provision be incorporated in the law since the SEC, as regulator of these pre-need firms, has failed to impose such a requirement, and to substantially update the disclosure requirements it has imposed on the industry.

Upon further queries, Senator Angara furnished Senator Roxas with a list of requirements to be contained in the information brochure, including the submission of its annual financial statements and audited reports which is also a requirement for all companies.

As regards the observation that he views the disclosure of needful information only as an undue burden on the pre-need firm and the SEC, Senator Angara expressed the belief that treating the matter as a full security by bringing in the full disclosure requirement under the Securities Act would be an unnecessary burden on the running of the pre-need industry.

For his part, Senator Roxas explained that he was not after the imposition of the full disclosure requirements of a security because it is voluminous; rather, he wanted the requirement to include the disclosure of risk factors of the pre-need plan. In turn, Senator Angara asked Senator Roxas for his opinion on the risk factors involved in the purchase of a pre-need plan which could be incorporated in the bill.

Senator Roxas pointed out that in general, the risk in purchasing any kind of financial instrument such as a pre-need plan would be the unavailability of the money at the time of redemption if the trust fund did not earn enough to cover the redeemable amount. However, he clarified that he was not proposing that this warning be stated in the brochure. On the other hand, Senator Angara noted that any investment carries certain risks.

To the suggestion that the public ought to be informed that such risks do exist, Senator Angara proposed that in lieu of a warning, prudential and protective measures could be woven around the pre-need plans such as disclosure, disqualification of the directors, prohibition against conflict of interest and the licensing of salesmen and dealers. However, he doubted whether the buyer of an education plan

could be guaranteed a risk-free investment. He maintained that life offers no perfect guarantees, adding that succeeding in implementing at least 60% of the proposed measures in the bill could be considered a success.

To the observation that pre-need companies take the lifesavings of ordinary people by leading them to believe that their investments would be kept safe and are redeemable, Senator Angara replied that the bill imposes a legal framework to protect the welfare of these investors but Senator Roxas believed that this is not enough. He expressed willingness to accept specific amendments from Senator Roxas.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:15 p.m.

RESUMPTION OF SESSION

At 5:17 p.m., the session was resumed.

MANIFESTATION OF SENATOR ROXAS

Senator Roxas informed the Body that the SEC representative in the gallery who supervises the pre-need unit of the SEC was still gathering the necessary information.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2077

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

MANIFESTATION OF SENATOR PANGILINAN

At the instance of Senator Angara, Senator Pangilinan informed the Body that deliberations on Senate Bill No. 2077 would be resumed after other items in the plenary agenda shall have been addressed.

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

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

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

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

Thereupon, the Chair recognized Senator Honasan, Sponsor of the measure,and Senator Defensor Santiago for her interpellation.

INTERPELLATION OF SENATOR DEFENSOR SANTIAGO

Adverting to page 2, line 4 of Section 3 of the bill, Senator Defensor Santiago suggested that the word "SIMILAR" be inserted between the words "other" and "explosive." Senator Honasan expressed willingness to accept the amendment at the proper time.

On the same page, line 17, Senator Defensor Santiago asked that the phrase IN PROPER CASES be inserted after the word "ABOVE" lest the provision imply that there is such an offense as a proposal to commit sedition. Senator Honasan agreed to accept the amendment at the proper time.

Senator Defensor Santiago noted that the proposed amendments in the bill aim not only to punish the unlawful manufacture, sale, acquisition, disposition or possession of explosives or instruments used or intended to be used but even of the parts or materials used in the manufacture of such items.

Further, Senator Defensor Santiago noted that the crime of manufacture, sale, acquisition, disposition or possession of explosives is imposed the afflictive

penalty of *reclusion perpetua*. She pointed out that unlike the present law, the term "use of explosives" in the commission of an offense resulting in the death of a person under the bill would no longer be an aggravating circumstance; instead, the use of incendiaries in the commission of any crime under the Penal Code or any special law is considered as a qualifying circumstance which automatically imposes a penalty of *reclusion perpetua*. She then asked whether it is the intent of the bill to make the "use of explosives" a qualifying circumstance rather than an aggravating one such that it automatically becomes part of the offense which is punished by *reclusion perpetua*. Senator Honasan replied in the affirmative.

She pointed out that, in effect, under the bill, the use of explosives, detonation agents and incendiary in the commission of any crime under the Revised Penal Code or special laws is more grave than under the present law because it is considered as a qualifying circumstance which is automatically punishable by *reclusion perpetua*.

On another point, Senator Defensor Santiago stated that under the proposed amendment to Section 3, paragraph 4 of the present law, the rule on absorption, meaning, one crime absorbs another, is abandoned. She asked clarification whether or not the rule on absorption would still be observed and whether the moment explosives are used, the crime of rebellion, insurrection, sedition and *coup d'etat* is already present. Senator Honasan answered in the affirmative, adding that the other qualifying condition is "willfully and knowingly allows" the use of such explosives.

Senator Defensor Santiago expressed concern that if the Body approves the bill as presently worded, there would be two different sets of rules, one pertaining to explosives and the other pertaining to firearms and ammunition. She stated that in view of the proviso in Section 1, paragraphs 1 and 2 of P.D. No. 1866, as amended by R.A. No. 8294, which states "Provided, That no other crime was committed," the Supreme Court in *People v. Lajaalam* held that if an unlicensed firearm is used in the commission of any crime, there can be no separate offense of simple illegal possession of firearm. She noted that with the proposal to delete the proviso, a person who violated Section 3 and committed a different crime could be indicted for two separate offenses, namely, the Penal Code or any special law, and P.D. No. 1866, as amended by R.A. 8294. Moreover, she pointed out that Article III, Section 21 of the Bill of Rights mandates that, "No person shall be twice put in jeopardy of punishment for the same offense...." She inquired if the situation would not give rise to double jeopardy because the person would be prosecuted or sentenced twice for substantially the same offense.

In reply, Senator Honasan read the proposed committee amendments, to wit: "Crimes complexed with the violation of this decree when a violation of Section 3 or 4 of this decree is a necessary means for committing any of the crimes defined in the Revised Penal Code or special laws which results in the death of any person or persons, the penalty of *reclusion perpetua* shall be imposed," and "The conviction or acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for any offense which necessarily includes or is necessarily included in the offense charged in the former complaint or information."

Proceeding to lines 7 to 13, page 2 of the bill, Senator Defensor Santiago interpreted the provision to mean that the use of explosives and detonation agents in a crime resulting in the death of any person is a qualifying circumstance which automatically imposes the penalty of *reclusion perpetua*. She said that Section 1, paragraph 4 of the law provides for the rule on absorption in case the violation of Section 1 is in furtherance of or incident to, or in connection with the crime of rebellion or insurrection, sedition, or attempted *coup d'etat*. Hence, she stated that there will be no separate indictment for use or possession of the unlicensed firearm and neither shall the use or possession of the unlicensed firearm be considered as an aggravating circumstance.

Unlike Section 1, paragraph 4 of the present law, Senator Defensor Santiago noted that the proposed amendment on lines 7 to 13 of page 2 of the bill does not provide for a rule on absorption, thus making the unlawful use and possession of explosives a qualifying circumstance punishable by *reclusion perpetua* in case such act is in furtherance of, or incident to, or in connection with the crime of rebellion, insurrection, sedition, and *coup d'etat*. However, she emphasized that this does not mean that the use and possession of explosives can no longer be the subject of a separate indictment because based on the wordings of the amendment, there can still be a separate violation of Section 3.

Asked if the case of double jeopardy could be prevented by the proposed committee amendments, Senator Honasan answered in the affirmative, explaining that because of the complexity of the laws on terrorism, an approach to separate the use of explosives as a tool of terrorism was the remedy thought of by the Committee.

SUSPENSION OF SESSION

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

It was 5:40 p.m.

RESUMPTION OF SESSION

At 5:41 p.m., the session was resumed.

RESERVATIONS TO INTERPELLATE

Senator Pangilinan manifested that Senators Lacson and Legarda have made reservations to interpellate Senator Honasan in the next day's session.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2230

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

SPECIAL ORDER

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 67 on Senate Bill No. 2361 from the Calendar for Ordinary Business to the Calendar for Special Orders.

COMMITTEE REPORT NO. 67 ON SENATE BILL NO. 2361

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 2361 (Committee Report No. 67), entitled

AN ACT PROVIDING A MECHANISM FOR FREE LEGAL ASSISTANCE AND FOR OTHER PURPOSES.

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

The Chair recognized Senator Escudero, Sponsor of the measure.

REQUEST OF SENATOR ESCUDERO

Senator Escudero requested that the cosponsorship speeches of Senators Lapid and Pangilinan be inserted into the Journal and the Record of the Senate and that Senator Arroyo be recognized for his cosponsorship speech.

COSPONSORSHIP SPEECH OF SENATOR ARROYO

In cosponsoring Senate Bill No. 2361, Senator Arroyo said that the measure which addresses the issue on whether established lawyers or *abogados de campanilla* should contribute their worth and talents for the common weal is long overdue. He stated that Senator Pangilinan filed Senate Bill No. 1945 in the Twelfth Congress and Senate Bill No. 1836 in the Thirteenth Congress, but these bills were unfortunately not acted upon. He noted that Senate Bill No. 1836 sought to authorize the Ombudsman to hire private lawyers to assist the office in handling the cases before it.

Senator Arroyo noted that public prosecutors are handicapped because of big-time lawyers who are usually for the defense and have the available means to put up a very able defense for the defendants. Unfortunately, he said, the issue was not acted upon. He expressed hope that this bill sponsored by Senators Lapid and Escudero which would be on the other side of what he has just stated, would marshal the resources of established lawyers to support the defense or the side of those who cannot afford legal assistance. He said that this bill was initially conceptualized by Senator Lapid who asked him, being a lawyer, for help.

Having been in the Free Legal Assistance Movement for so long, and having co-founded the Free Legal Assistance Group (FLAG) with such distinguished lawyers like then Senators Lorenzo Tañada and Jose W. Diokno, and in the case of the MABINI where Bobbit Sanchez, Rene Saguisag and then

Secretary Fulgencio Factoran were all members, Senator Arroyo said that he knew well that when established lawyers take up a case, they handle it with dedication.

Senator Arroyo stated that the purpose of the bill is for established lawyers who are making a lot of money to give part of their services for free to poor litigants; usually, the ones who are appointed by the court to help *de officio* the poor are those who are not very able lawyers, which is even worse, because they give inadequate assistance and invariably, they lose the case. He pointed out that if at all government should get the assistance of lawyers to help the poor, they must be the able lawyers who are already making money and can share their time and efforts to help.

Senator Arroyo stated that in the United States, big law offices spend a considerable amount of time or budget for *pro bono* work which they handle as if those were paying cases of their law firm. He said it is not surprising to see law offices in the U.S. with 300 up to 1,000 lawyers, a certain number of whom are dedicated to *pro bono* work.

Senator Arroyo said that Senators Lapid and Escudero put their heads together in crafting the bill, expressing hope that the Senate would act swiftly on this uncontroversial or uncomplicated bill.

At this juncture, Senate President Pro Tempore Ejercito Estrada relinquished the Chair to Senator Pangilinan.

SPONSORSHIP REMARKS OF SENATOR ESCUDERO

Senator Escudero stated that the Committees on Justice and Human Rights, and Ways and Means, are in agreement with the statements of Senator Arroyo. He believed that the bill is timely, given the present need and glut of lawyers insofar as being able to provide adequate legal assistance to persons in need, especially those who cannot afford it. He noted that the Public Attorney's Office (PAO) has been asking Congress to give it an additional funding of P400 million so that it can hire more lawyers for the office to adequately and efficiently do its job as public attorney for people who cannot afford the services of counsel.

Also, he said that for the past several years, the DOJ has been asking for an additional funding of P1.2 billion to be able to hire additional prosecutors who can adequately perform their functions in ensuring that justice is done in the courtrooms in trying criminal cases. With a total budgetary requirement of P1.6 billion, he said that the bill seeks to provide an incentive, by way of an additional deduction, for lawyers performing free legal services to indigent or needy clients. He stated that the potential revenue loss, according to the BIR, with a ceiling of P50,000 per year or a ceiling of P150,000 per year would be approximately P580 million on the downside and P1.56 billion on the high side. He believed that the exemptions and deductions would still be a savings for government given that it would have to spend P1.6 billion annually in order to provide the service mandated by the Constitution.

Senator Escudero informed the Body that during the Committee's public hearing, the Supreme Court administrator stated that the SC might come up with a rule as part of the mandatory continuing legal education required of lawyers, requiring them to perform free legal assistance for continued membership in the practice of their profession. While *pro bono* lawyers are only paid P50 per appearance by way of an appointment as *de officio* counsel, he said that the bill would go a long way insofar as encouraging them to actually perform free legal service not only to indigent clients but to those who cannot afford the services of a counsel.

With these submissions, Senator Escudero asked for the early passage of the measure.

COSPONSORSHIP SPEECH OF SENATOR LAPID

At the instance of Senator Lapid, his cosponsorship speech on Senate Bill No. 2361 was deemed read into the Record of the Senate.

The full text of the speech follows:

LIBRENG SERBISYONG LEGAL PARA SA MGA MAHIHIRAP

Mga pinagpipitagan kong kasamahan sa Mataas na Kapulungan ng Kongreso, ikinagagalak kong maging kabahagi sa paghubog at pagsulong ng isang panukalang batas na naglalayong gawing abot-kamay ang serbisyong legal sa ating mga mahihirap na kababayan.

Ako po ay naniniwala na ang pagkakataon na makamit ang hustisya ay isang karapatan

ng bawat isa sa atin. Ang kahirapan o ang pagiging salat sa buhay ay hindi dapat maging dahilan upang ang isang tao ay mawalan ng buhay, kalayaan o ari-arian ng walang kalaban-laban.

Bagama't mayroon na pong itinatag ang ating pamahalaan na Public Attorney's Office (PAO) *at piskalya na siyang nagbibigay ng serbisyong legal para sa ating mga kababayang mahihirap, marami pa rin sa ating mga kababayan ang hindi nabibigyan ng karampatang serbisyong legal dahil sa dami ng mga kasong hinahawakan ng ating mga abogado sa PAO at piskalya.*

Sa pamamagitan ng panukalang batas na ito, ang ating mga abogado sa pribadong sektor ay hihimukin natin na tumulong sa pagpuno sa kakulangan sa serbisyong legal sa pamamagitan ng pagbibigay ng libreng serbisyo sa ating mga kababayan na nangangailangan ng payo o representasyon ng isang abogado. At upang lalo nating mahikayat ang mga abogado sa pribadong sektor na tumulong sa ating layunin, babawasan ng panukalang ito ang kanilang binabayaran na buwis sa pamahalaan sa halagang katumbas ng serbisyong kanilang ibinigay.

Sa pagkakataong ito, hinihiling ko na samahan ninyo ako sa aking layunin na maipasa ang panukalang ito na tunay na makakatulong sa ating mahihirap na kababayan.

COSPONSORSHIP SPEECH OF SENATOR PANGILINAN

At the instance of Senator Pangilinan, his cosponsorship speech on Senate Bill No. 2361 was deemed read into the Record of the Senate.

The full text of the speech follows:

I stand today to sponsor a meritorious bill that will make a significant difference to justice and rule of law in the Philippines.

The law profession derives its nobility from its power to promote and protect the dignity of every individual, and its power to ensure that justice and equity is within every person's reach.

However, the reality is that not all Filipinos are able to afford access to legal assistance. With the unforgiving poverty that most of our countrymen battle on a day-to-day basis, many of our citizens faced with conflict with the law find it nearly impossible to afford a fair trial that is supported by adequate and competent legal assistance. We have the responsibility to ensure that this country sends no innocent man behind bars only because of his or her economic status.

Senate Bill No. 2361 or *"An Act Providing A Mechanism For Free Legal Assistance and For Other Purposes* is in line with our thrust to not only guarantee that every citizen of this country is able to face the justice system on equal footing, but also to strengthen the essence and relevance of the law profession in our society.

By granting tax credits to lawyers and law firms, we trust that more of our colleagues in the field of law will be encouraged to render this vital social service to our less fortunate Filipinos. I fully support this bill and push for the swift passage of this measure.

COAUTHOR

Senator Zubiri manifested his desire to be coauthor of Senate Bill No. 2361, as he congratulated Senator Lapid for introducing a very laudable bill.

INTERPELLATION OF SENATOR ANGARA

Senator Angara said that he has been in law practice for quite sometime before he joined the public service, and he knows full well that the big law firms can easily provide *pro bono* legal service even if Congress does not give them any incentive because many of them set aside 10% for that purpose. However, he stated that it is difficult to survive on solo practice and yet, many of the *pro bono* voluntary services are offered or rendered by individual practitioners. He opined that it would be a more powerful incentive to provide these lawyers with cash incentive rather than tax deduction because these lawyers do not have huge income against which they would benefit from a tax deduction. To make the incentive more attractive, he proposed that the bill provide a legal assistance fund similar to that of other states from which voluntary services of lawyers, mainly solo practitioners, are charged.

Senator Escudero expressed willingness to accept the proposal, adding that it can also be suggested to various agencies engaged in judicial and quasi-judicial functions.

Relative thereto, Senator Escudero stated that the Supreme Court's budget allows a fee of P50 only per appearance whenever a judge appoints a counsel *de officio* in open court, the reason it has been

asking for an increase in allocation insofar as this provision is concerned. He said that the same is true perhaps for other quasi-judicial bodies like the NLRC wherein the hearing officer does not have the authority to appoint counsel *de officio* insofar as the preparation of memorandum is concerned, on the part of an employee aggrieved by any action taken by his/her employer.

At this juncture, Senator Pangilinan relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.

Senator Angara recalled that when he was president of the Integrated Bar of the Philippines (IBP), he worked for the creation of an initial P5-million legal fund purposely for legal assistance administered by the Supreme Court which eventually increased to P20 million, still miniscule and could not even be considered an incentive. He proposed that Section 5 (*Incentives to Lawyers*) should not be limited to granting tax deduction but should be open to the grant of money and a self-funding mechanism for this incentive.

Senator Escudero said that he would accommodate the proposal at the proper time.

INTERPELLATION OF SENATOR PIMENTEL

Asked by Senator Pimentel if there is a provision in the bill whereby payments are made to *pro bono* lawyers from big firms, Senator Escudero replied in the negative, as he explained that the incentive is only by way of a tax deduction that they can claim with the cap of 10% based on their gross income derived from the exercise of their profession.

SUSPENSION OF SESSION

Upon motion of Senator Escudero, the session was suspended.

It was 6:01 p.m.

RESUMPTION OF SESSION

At 6:01 p.m., the session was resumed.

TERMINATION OF THE PERIOD OF INTERPELLATIONS

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

TERMINATION OF THE PERIOD OF COMMITTEE AMENDMENTS

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

ANGARA AMENDMENTS

On page 2, line 19, after the word "profession, " Senator Angara proposed the deletion of the period (.) and thereafter, the insertion of the phrase OR SUCH HONORARIUM AS THE SUPREME COURT MAY DETERMINE PAID OUT OF THE FUND ESTABLISHED UNDER SECTION __" which he would introduce later.

At this point, Senator Arroyo opined that lawyers of big law firms would not be helping if they are given tax credits. He said that the bill intends to harness the services of the big law firms as a public service and that this cannot be treated as a commercial transaction.

Senator Angara stated that the Committee may define the concept of the intended incentive. He believed that lawyers of large firms do not really need incentives, citing his law firm which, as a matter of policy, dedicates 10% of its time to *pro bono* legal service.

Senator Escudero suggested the insertion of the phrase AS THE SUPREME COURT MAY DETERMINE at the end of line 19 as he committed to work for the inclusion in the budget of a fund to enable the Supreme Court to classify the law firms according to size, how much they are entitled to, and who shall give them the benefits. He pointed out that precisely, as part of the lawyer's continuing membership in the Philippine Bar and his right to practice his profession, the Supreme Court plans to require him to provide free legal assistance to indigent clients.

Senator Angara stated that the P20 million fund he initiated is really for organized bar associations, whether the IBP or PBA. He clarified that he wanted to give an incentive to non-organized bar, law firms and solo practitioners whose overhead expenses

are so big they can ill afford to volunteer their time. He stated that lumping the incentive with the Legal Assistance Fund that is being administered by the Supreme Court would mean that an IBP member who was asked to render *pro bono* work would be paid P50. Precisely, he stated that he suggested the creation of a separate fund under the proposed Act to be allocated by the Supreme Court and to be funded during the annual budget deliberations.

On page 2, as proposed by Senator Angara and accepted by the Sponsor, there being no objection, subject to style, the Body approved the insertion of a new section between Sections 7 and 8 to the effect that the honorarium shall be paid out of the P0.10 per peso collected from filing fees with administrative agencies exercising quasi-judicial functions like the BIR, SEC and NBI.

Senator Angara stated that he would work out the precise wording of the provision with Senator Arroyo.

PROPOSED AMENDMENT OF SENATOR HONASAN

Asked by Senator Honasan whether the intent of the bill is to level the legal playing field, Senator Escudero replied in the affirmative.

Senator Honasan asked whether it would be in order to include in the bill a provision allowing the Department of Justice to exercise compelling powers on law enforcement agencies that, by historical experience, have withheld information and evidence to the detriment of the poorer members of society who are the intended beneficiaries of the proposed Act. In response, Senator Escudero agreed that indeed, there are times when the modes of discovery are not made available to all indigent clients. However, he pointed out that the DOJ already exercises compelling power when it issues subpoenas; and during the period of discovery, the lawyers of the accused could resort to the Rules of Court to obtain evidence in the hands of law enforcers or other parties. He expressed concern that Congress might be interfering with the court if it provides in the proposed Act a provision on the modes of discovery given the rule-making power of the Supreme Court under the Constitution.

Morever, Senator Escudero stated that there are pending bills in the Committee that address this concern taking into consideration constitutional constraints and limitations.

TERMINATION OF THE PERIOD OF INDIVIDUAL AMENDMENTS

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

APPROVAL OF SENATE BILL NO. 2361 ON SECOND READING

Submitted to a vote, there being no objection, the Body approved Senate Bill No. 2361, as amended, on Second Reading.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2361

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

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 6:09 p.m.

RESUMPTION OF SESSION

At 6:15 p.m., the session was resumed.

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

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

AN ACT ESTABLISHING THE PRE-NEED CODE OF 2008.

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

Thereupon, the Chair recognized Senator Angara, Sponsor of the measure, and Senator Roxas for his amendments.

ROXAS AMENDMENT

Senator Roxas recalled that when he last interpellated, Senator Angara asked him to define the concept of "risk factors disclosure" that is to be contained in the sales materials of a pre-need plan. He stated that he went to the Securities and Exchange Commission data bank and discovered that SEC has a checklist with general risk warnings that could be refined and adopted for the pre-need code. For instance, he cited one item which says, "The price of securities can... fluctuate and any individual security may experience upward and downward movements and may even become valueless. There is inherent risk that losses may be incurred rather than profit made as a result of buying and selling securities," and another item which provides, "This risk disclosure does not purport to disclose all the risks and other significant aspects... investors should undertake his or her own research and study the securities before commencing any trading or investment activity." He believed that it would not be out of line to adopt some of the items in the SEC checklist such as general risk warnings, the requirement of prudence, or seeking professional advice.

On page 11, line 20, as proposed by Senator Roxas and modified by the Sponsor, there being no objection, the Body approved, subject to style, the insertion of the following as Section 15(h): SUCH REGISTRATION STATEMENT AND SALES MATERIALS SHALL CONTAIN THE APPROPRIATE RISK FACTORS AS MAY BE DETERMINED BY THE COMMISSION.

At this juncture, Senator Angara distributed a write-up on the issue of investments made by the pre-need industry on behalf of plan buyers.

SUSPENSION OF SESSION

Upon motion of Senator Roxas, the session was suspended.

It was 6:22 p.m.

RESUMPTION OF SESSION

At 6:27 p.m., the session was resumed.

ANGARA AMENDMENTS

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

1. On page 15, line 16, replace the words and figure "forty-eight percent (48%)" with FORTY-FIVE PERCENT (45%); and

2. On the same page, line 17, replace the words and figure "fifty four percent (54%)" with FIFTY-ONE PERCENT (51%).

Replying to the queries of Senator Roxas, Senator Angara confirmed that if a life plan is paid in full, 45% would be deposited in the trust fund, and in the case of a fully paid education plan, 51% would be deposited in the trust fund. In case of installment, he explained that a purchase price of P100, for instance, is broken down into five payments of P20 each, meaning that 5% of P1 of the first P20, would go to the trust fund, and P19 would go either to commissions, insurance and other operating costs.

Asked why more than half of a full cash payment and only 1% of an installment payment would go to trust fund, Senator Angara replied that there is risk that the planholder might not be able to continue paying his installment but the company would have already paid commission, overhead, taxes and insurance of a life plan.

Senator Roxas asked if it makes more sense for the company to amortize all of the payments in the same manner as the buy-in payments are made, for instance, paying merely a percentage commission corresponding to the installment rather than paying 100%. Senator Angara clarified that commission is 40%, and is pro-rated according to the installment basis.

Asked what happens to the other 99% of the planholder's payment, Senator Angara replied that it all goes to taxes including VAT, insurance and marketing. He affirmed that 1% of the 20% installment goes to the trust fund; 2.4%, or 12% of 20%, would go to VAT, and the rest go to securities registration statement and other operating expenses.

Senator Roxas noted that in the earlier interpellations, the strict standards of securities registration statement were not imposed precisely to bring down cost. He pointed out that registration statement expenses are amortized over the entire number of plans to be sold, thus, it cannot be all that large.

Senator Angara explained that based on the commission structure on installment, 30% to 40% is amortized pro-rated according to the installment

payments. He clarified that the company does not make a huge profit out of the 99% because the average return of 9% to 10% is only realized when the entire plan is fully paid and the payback is between seven to eight years on a full employment condition, which is not the case all the time because the industry is reeling from marketing problems. Thus, he said that if the initial contribution to the trust fund is doubled, the industry fears that it would become unviable and people would cease to invest.

As to whether the contribution of 1% during the first two years makes the trust fund weak, Senator Angara said that both the record of the industry and the actuarial calculation indicate that it would still be a strong backup to ensure that plan payment is made on time or when it matures because the trust fund is evaluated annually. If there is any deficiency in the trust fund value, he said that the company is mandated under the Code to make up for it.

Senator Roxas requested the resource person from the industry to provide a typical pesos-and-centavos example, rather than percentages. He noted that for education plans, in the first two years of installment, only 3% went to the trust fund to benefit the planholder; on the third year, 16% went to the trust fund; by the time half of the payment was made, the planholder had already paid 60% of his obligation, but less than 20% of his payment worked for him. He explained that his reservation lies in the fact that while the percentages in the Code are a little lower than the current industry practice, the recent industry experience could not help but make people wary. He noted that despite SEC regulations, financial debacles happened, so planholders were not paid and redemptions were not made.

Senator Angara argued against making generalizations as he believed that the collapse of some pre-need companies was caused by the so-called traditional plan in education because of its open-ended commitment to pay tuition when it matures. He said that it was unfortunate that in the intervening years, tuition, especially in Educational Category I, was deregulated.

Senator Angara recalled that when the tuition fees of Ateneo de Manila, De La Salle and five other universities increased tremendously, the CAP and the Pacific Plans, Inc. (PPI) started to experience a severe fund problem. He said that no one should generalize because only seven companies which sold traditional plans got into trouble and a lot of pre-need companies are still operating viably.

Senator Roxas reasoned that his concern was to ensure the balance between consumer and business interests.

Senator Angara said that his interest is to make the pre-need industry grow and remain viable but if the intention is to double the contribution to the trust fund in the first two years, this would make the industry an unattractive investment vehicle and those remaining may become unviable later on.

Senator Roxas said that if companies become unviable as a result of undertaking prudential measures to ensure that people are not cheated, these companies must take steps to make their operations more efficient. He explained that if only 51% of what an investor pays goes to the trust fund, the company would be forced to look for higher returns which means investing in high-risk undertakings.

Senator Angara explained that under the Code, the recent experience of pre-need companies of failing to meet the maturing educational needs of thousands of planholders would not happen because there is a requirement for annual actuarial evaluation. Should there be a deficiency of funds to meet the demands, he said that a company must fill up such deficiency.

To the contention that the provision for annual actuarial evaluation did not work in the past, Senator Angara said that the companies were not obligated to make up for their deficiencies. However, Senator Roxas insisted that the SEC did not allow the companies to sell plans unless they made up for their obligations.

Senator Angara reiterated that the problem is confined to traditional educational plans, pointing out that life and pension plans are in full effect up to now. He disclosed that most of the companies have done away with the traditional open-ended plans. He stated that this is a matter of definition and judgment as what may be prudent to Senator Roxas might be a very excessive requirement to the industry and for the protection of the planholders. He maintained that the Committee has made the judgment that the rate is a fair distribution to all the industry stakeholders.

Asked on the set-aside for the first 20% of the contract price as provided under the existing law, Senator Angara replied that it is five percent. He said that the contributions for the next two or three years would total to only 30% but under Section 5 of the proposed Act, the minimum limits of the deposit contribution to the trust fund shall be 45% of the amount collected for life plans and 51% of the total amount collected for pre-need plans other than life plans.

SUSPENSION OF SESSION

Upon motion of Senator Roxas, the session was suspended.

It was 6:53 p.m.

RESUMPTION OF SESSION

At 7:46 p.m., the session was resumed.

ROXAS AMENDMENTS

On page 8 (*Investment Restrictions of Directors and Officers)*, lines 20 to 25, Senator Roxas observed that there is a prohibition on directors and officers of any pre-need company from having substantial interest in an investment in any corporation or business undertaking where the company's trust fund has as an investment or financial interest in and it defines "substantial interest" as 10% in the equity of a corporation,

On page 8, as proposed by Senator Roxas and modified by the Sponsor, there being no objection, the Body approved, subject to style, the deletion of the word "the" on line 22 up to "substantial" on line 28, and in lieu thereof, the insertion of the following phrase: HAVE AN INVESTMENT IN EXCESS OF P5 MILLION IN ANY CORPORATION OR BUSINESS UNDERTAKING IN WHICH THE PRE-NEED COMPANY'S TRUST FUND IS AN INVESTMENT IN OR AS A FINANCIAL INTEREST WITH.

Senator Angara stated that corresponding changes would be made on the next page to conform to the principal text.

Senator Roxas reminded the resource persons that Section 19 would be discussed in the next day's session.

As a guide to the resource persons, specifically on the termination value, Senator Angara asked that Section 19 be reworded to specifically state that the termination value, depending on the length of the plan that was enforced, will be such percentage of the payment made, as fixed by the SEC.

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

1. On page 16, line 17, delete the sentence starting with the word "However" up to "entity" on line 24;

2. On page 18, line 12, and wherever found in the bill, change the word "equity" to AMOUNT.

Senator Angara reminded the Body that the allocation of trust fund investment under Section 28 would still be reviewed so that the percentages on page 17 up to page 22 are open for amendments.

3. On the page 19, lines 8 and 9, delete the phrase "from the trust fund of pre-need companies";

4. On the same page, line 13, delete the words "appraised value" and in lieu thereof, insert the words ZONAL VALUATION;

5. Subject to style, delete the words "two-year only" on line 28 of page 19 and line 1 of page 20, and in lieu thereof, insert the phrase THAT THE WEIGHTED AVERAGE MATURITY OF ALL SUCH LOANS BE NOT LONGER THAN FOUR YEARS.

SUSPENSION OF SESSION

Upon motion of Senator Roxas, the session was suspended.

It was 7:59 p.m.

RESUMPTION OF SESSION

At 8:00 p.m., the session was resumed.

Adverting to Section 31 (*Distribution of Profits*) on page 23, Senator Roxas proposed that in the spirit of ownership and accountability, all financial issuances by corporations should be signed by the president and the treasurer. Senator Angara maintained that such a requirement is not necessary.

SUSPENSION OF SESSION

Upon motion of Senator Roxas, the session was suspended.

It was 8:02 p.m.

RESUMPTION OF SESSION

At 8:04 p.m., the session was resumed.

6. On page 23, after the word "Treasurer," insert the phrase WITH RESPECT TO ITEMS (A) AND (B) AND IN THE CASE OF ITEM (C) BY THE TRUST OFFICER.

7. On page 24, line 3, between the words "an" and "actuary," insert the phrase INDEPENDENT SEC-ACCREDITED;

8. On the same page, line 1, replace the word "Certified" with ACTUARIAL;

9. On page 25, line 5, replace the heading "Required Certified Reports" with OTHER REPORTING REQUIREMENTS.

Senator Angara stated that he would provide Senator Roxas with data concerning Section 25 (*Contributions to the Trust Fund*) in the next day's session. He said that the schedule of termination of value on Section 19 (*Termination of Pre-Need Plans*) would be amended to make it more complete, and the waiting period for the maturity of the trust fund would be adjusted.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 2077

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

APPROVAL OF THE JOURNAL AS CORRECTED

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 84 and considered it approved, subject to the correction made by Senator Madrigal on page 849, second column, under the caption "SPONSORSHIP SPEECH OF SENATOR MADRIGAL," first line, to delete "the 42nd" and in lieu thereof, to insert the words "for the day"; and by Senator Legarda, to insert into the Journal her cosponsorship speech on Senate Bill No. 2317.

CHANGE IN REFERRAL

Upon motion of Senator Pangilinan, there being no objection, the Chair referred Proposed Senate Resolution Nos. 300, 309, 315 and 319 (Kalayaan Island Groups) primarily to the Committees on Foreign Relations, on the aspect of foreign relations, and Accountability of Public Officers and Investigations on the aspect of accountability; and secondarily to the Committees on National Defense and Security, and Environment and Natural Resources.

ADDITIONAL REFERENCE OF BUSINESS

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

BILLS ON FIRST READING

Senate Bill No. 2363, entitled

AN ACT STRENGTHENING THE OPEN *LEARNING SYSTEM OF HIGHER* EDUCATION IN THE PHILIPPINES, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Antonio "Sonny" F. Trillanes IV

To the Committees on Education, Arts and Culture; Way and Means; and Finance

Senate Bill No. 2364, entitled

AN ACT PROHIBITING THE UNLAWFUL POSSESSION OF OPEN ALCOHOLIC BEVERAGE IN MOTOR VEHICLE ON HIGHWAYS, AND FOR OTHER PURPOSES

Introduced by Senator Antonio "Sonny" F. Trillanes IV

To the Committees on Justice and Human Rights; and Public Services

Senate Bill No. 2365, entitled

AN ACT PROVIDING BENEFITS TO PUBLIC EMPLOYEES WHO SUFFER ANY INJURY IN THE LINE OF DUTY THAT LEADS TO DISABILITY

Introduced by Senator Antonio "Sonny" F. Trillanes IV

To the Committees on Public Order and Illegal Drugs; and Civil Service and Government Reorganization

Senate Bill No. 2366, entitled

AN ACT TO ENSURE THE FULL REALIZATION OF THE CONSTITUTIONAL RIGHT OF ALL CITIZENS TO QUALITY EDUCATION ORDAINING FOR THE PURPOSE A NO FILIPINO CHILD LEFT BEHIND ACT OF 2008

Introduced by Senator Manny Villar

To the Committees on Education, Arts and Culture; Youth, Women and Family Relations; and Finance

Senate Bill No. 2367, entitled

AN ACT PROVIDING STIFFER PENALTIES ON ILLEGAL GAMBLING, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NUMBERED SIXTEEN HUNDRED AND TWO, AS AMENDED

Introduced by Senator Manny Villar

To the Committees on Games, Amusement and Sports; and Constitutional Amendments, Revision of Codes and Laws

Senate Bill No. 2368, entitled

AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 7394, OTHERWISE KNOWN AS THE CONSUMER ACT OF THE PHILIPPINES, DEFINING FOR THE PURPOSE THE CRIME OF PSEUDO-INVESTMENTS, PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Manny Villar

To the Committee on Trade and Commerce

Senate Bill No. 2369, entitled

AN ACT ESTABLISHING THE SOLAR ENERGY DEVELOPMENT AUTHORITY AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Manny Villar

To the Committees on Energy; Public Services; and Finance

RESOLUTION

Proposed Senate Resolution No. 433, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED PROLIFERATION OF KIDNEY TRANSPLANTATIONS DESPITE A TOTAL BAN IN THE COUNTRY

Introduced by Senator Miriam Defensor Santiago

To the Committee on Health and Demography

COMMUNICATION

Letter from Jesus P. Francisco, president and COO of the Manila Electric Company, dated May 30, 2008, providing the Senate with a copy of the 2007 Annual Report of Finances and Operations as prescribed by the reportorial requirement in Section 14 of Republic Act No. 9202.

To the Committee on Public Services

REFERRAL OF RESOLUTION

Upon motion of Senator Pangilinan, there being no objection, the Chair sent Proposed Senate Resolution No. 391 to the Archives.

COAUTHORS

Senator Pangilinan manifested that Senate President Villar and Senator Ejercito Estrada and himself are coauthors of Senate Joint Resolution No. 3 (Retirement Benefits and Incentives to all

Qualified Officials and Employees of the Philippine Senate) principally authored by Senator Pimentel, and which was previously referred to the Committee on Accounts.

SENATE CONFEREES

Upon nomination by Senator Pangilinan, there being no objection, the Senate President Pro Tempore designated the following to constitute the Senate panel in the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1887 (Personal Equity and Retirement Account) and its counterpart House Bill No. 3754: Senator Angara as chair; and as members, Senators Enrile and Zubiri, on the part of the Majority, and Senators Legarda and Biazon, on the part of the Minority.

He informed the Body that the Bicameral Conference Committee on the PERA bill is scheduled to meet on June 10, 2008.

ANNOUNCEMENT OF SENATOR PANGILINAN

Likewise, Senator Pangilinan announced that the next day's session would be suspended after the roll call to allow the senators to go into caucus.

ADJOURNMENT OF SESSION

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

It was 8:17 p.m.

I hereby certify to the correctness of the foregoing.

EMMA LIRIO-REYES
Secretary of the Senate

Approved on June 10, 2008