



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 61**  
Monday, February 13, 2017

**SEVENTEENTH CONGRESS**  
**FIRST REGULAR SESSION**

**SESSION NO. 61**  
Monday, February 13, 2017

**CALL TO ORDER**

At 3:10 p.m., the Senate President Pro Tempore, Hon. Franklin M. Drilon, called the session to order.

**PRAYER**

The Body observed a minute of silent prayer.

**NATIONAL ANTHEM**

The Senate Choir led the singing of the national anthem.

**ROLL CALL**

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

Angara, S.	Lacson, P. M.
Aquino, P. B. IV, B.	Legarda, L.
Binay, M. L. N. S.	Pangilinan, F. N.
Drilon, F. M.	Poe, G.
Ejercito, J. V. G.	Recto, R. G.
Gatchalian, W.	Sotto III, V. C.
Gordon, R. J.	Villanueva, J.
Honasan, G. B.	Villar, C. A.
Hontiveros, R.	Zubiri, J. M. F.

With 18 senators present, the Chair declared the presence of a quorum.

Senators De Lima, Escudero, Pacquiao and Trillanes arrived after the roll call.

Senator Cayetano was on official business as indicated in the letter of his chief of staff dated February 13, 2017.

Senate President Pimentel was on official mission abroad.

**APPROVAL OF THE JOURNALS**

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journals of Session No. 59 (February 7, 2017) and Session No. 60 (February 8, 2017) and considered them approved.

**ACKNOWLEDGMENT  
OF THE PRESENCE OF GUESTS**

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

- Bachelor of Science in Secondary Education (BSSED) major in English students from the Polytechnic University of the Philippines;

*ms mt*

- Students from Miriam College led by Prof. Jasmin Nario-Galace;
- Representatives of the Lesbian and Gay Legislative Advocacy Network Philippines (LAGAB-LAB) headed by Megan Evangelista;
- Delegates of the Psychological Association of the Philippines (PAP);
- Students from the Mater Dei Academy in Tagaytay led by Mark Joseph Lorezo, Mark Adrian Ramos and Ms. Christine Joy Rimorin;
- Officials of Barangay San Pablo, Sto. Tomas, Batangas, headed by Barangay Captain Jay Oloc-Oloc;
- Dr. Mike McKinney and Sis. Adelle McKinney, president and vice president, respectively, of the World for Jesus International Ministries; and
- President and founder of Jesus is Lord Church Worldwide Ministries, Bishop Bro. Eddie Villanueva and Sis. Dory Villanueva, spiritual director.

Senate President Pro Tempore Drilon welcomed the guests to the Senate.

#### MANIFESTATION OF SENATOR GORDON

Senator Gordon apologized to the Body for cancelling the afternoon meeting of the Blue Ribbon Committee, explaining that the witness who was supposed to testify and who the Committee was supposed to declare in contempt and whose passport the Committee was likewise applying to be cancelled through the courts, failed to appear because upon checking with the Bureau of Immigration, his flight to Manila was delayed due to a snow storm. Thereupon, he informed the Body that the Committee will proceed with its meeting on Thursday.

#### APPROVAL OF PROPOSED SENATE RESOLUTION NO. 283 ON THIRD READING

Upon motion of Senator Sotto, there being no objection, the Body considered, on Third Reading, Proposed Senate Resolution No. 283, printed copies of which were distributed to the senators on February 9, 2017.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, upon motion of Senator Sotto, there

being no objection, Secretary Barbo read only the title of the resolution, to wit:

#### RESOLUTION CONCURRING IN THE RATIFICATION OF THE AGREEMENT BETWEEN JAPAN AND THE REPUBLIC OF THE PHILIPPINES ON SOCIAL SECURITY.

Secretary Barbo called the roll for nominal voting.

#### RESULT OF THE VOTING

The result of the voting was as follows:

##### *In favor*

Angara	Lacson
Binay	Legarda
De Lima	Pangilinan
Drilon	Poe
Ejercito	Recto
Gatchalian	Sotto
Gordon	Villanueva
Honasan	Villar
Hontiveros	Zubiri

##### *Against*

None

##### *Abstention*

None

With 18 senators voting in favor, none against, and no abstention, the Chair declared Senate Resolution No. 283 approved on Third Reading.

#### SUSPENSION OF SESSION

Upon motion of Senator Sotto, the session was suspended.

*It was 3:18 p.m.*

#### RESUMPTION OF SESSION

At 3:21 p.m., the session was resumed.

#### PRIVILEGE SPEECH OF SENATOR LEGARDA

Senator Legarda stated that she was availing herself of the privilege hour to call for the continuation

of the peace negotiations between the Philippine Government and the National Democratic Front of the Philippines (NDFP).

*Following is the full text of her speech:*

I wish to put on record my views on the peace negotiations between the Philippine Government and the National Democratic Front of the Philippines (NDFP).

I call on all parties to continue the peace talks. War is never an option. More death and suffering will be the result of the resumption of hostilities which neither the government nor the NDFP can win.

In fact, it has been happening already. There were clashes not just in Mindanao but even in the Cordillera in Ifugao.

As someone who has been involved in negotiating releases of prisoners by the New People's Army (NPA), I have seen the sincerity of all sides to this conflict and have witnessed the intense desire for peace. There is a reservoir of goodwill inside all of us that we must now draw from, so guns are not drawn and fired once again.

I support a negotiated bilateral ceasefire agreement, with effective monitoring procedures and strict compliance mechanisms. This ceasefire agreement should be unconditional as it benefits both parties to the conflict. More importantly, it is good for our people and they will welcome this. It will also prevent unexpected and untoward incidents that could derail the peace process.

I support the unconditional release of all political prisoners. I understand that this might have to be done in batches and according of course, to legal procedures. But let us begin with the sick detainees and those who are already seniors, 60 years old and over.

As chair of the Senate Committee on Finance, I commit to work on a national budget for 2018 that would support and advance the gains of the peace process. That is the least we in Congress can do.

President Rodrigo Roa Duterte has a solid and comprehensive vision for peace. He has been willing to back it up with the strongest political will. Let us support the peace process so that this vision is achieved.

Senator Legarda said that she would not take any interpellations regarding her privilege speech as she simply wanted to convey her views to support the continuation of the peace negotiations.

## REFERRAL OF SPEECH TO COMMITTEE

Upon motion of Senator Sotto, there being no objection, the privilege speech of Senator Legarda was referred to the Committee on Peace, Unification and Reconciliation.

## REFERENCE OF BUSINESS

The Secretary of the Senate read the following Senate bills and resolutions which the Chair referred to the committees hereunder indicated:

### BILLS ON FIRST READING

Senate Bill No. 1319, entitled

AN ACT AMENDING SECTION 4 OF REPUBLIC ACT NO. 9006, OTHERWISE KNOWN AS AN ACT TO ENHANCE THE HOLDING OF FREE, ORDERLY, HONEST, PEACEFUL AND CREDIBLE ELECTIONS THROUGH FAIR ELECTION PRACTICES

Introduced by Sen. Aquilino "Koko" Pimentel III

**To the Committees on Electoral Reforms and People's Participation; and Public Information and Mass Media**

Senate Bill No. 1320, entitled

AN ACT INTEGRATING PALLIATIVE AND HOSPICE CARE INTO THE PHILIPPINE HEALTH CARE SYSTEM, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Sen. Aquilino "Koko" Pimentel III

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

Senate Bill No. 1321, entitled

AN ACT CONVERTING THE NATIONAL CENTER FOR GERIATRIC HEALTH INTO A CORPORATE BODY TO BE KNOWN AS THE "NATIONAL

*pp*

CENTER FOR GERIATRIC HEALTH AND RESEARCH INSTITUTE," AND APPROPRIATING FUNDS THEREFOR

Introduced by Sen. Aquilino "Koko"  
Pimentel III

**To the Committees on Government Corporations and Public Enterprises; Health and Demography; Ways and Means; and Finance**

Senate Bill No. 1322, entitled

AN ACT INSTITUTING THE CITIZEN SERVICE TRAINING COURSE, ESTABLISHING THE CITIZEN SERVICE CORPS, CREATING THE CITIZEN SERVICE MOBILIZATION COMMISSION, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Sen. Aquilino "Koko"  
Pimentel III

**To the Committees on Education, Arts and Culture; Youth; and Finance**

Senate Bill No. 1323, entitled

AN ACT DECLARING THE TWENTY THIRD DAY OF JANUARY OF EVERY YEAR AS A SPECIAL WORKING HOLIDAY IN THE ENTIRE PHILIPPINES, TO COMMEMORATE THE DECLARATION OF THE FIRST PHILIPPINE REPUBLIC ON JANUARY 23, 1899 AT THE BARASOAIN CHURCH, MALOLOS, BULACAN, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Sen. Aquilino "Koko"  
Pimentel III

**To the Committees on Education, Arts and Culture; and Finance**

### RESOLUTIONS

Proposed Senate Resolution No. 285, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO

CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPACT TO THE DOMESTIC SUGAR INDUSTRY OF THE INCREASING IMPORTATION OF HIGH FRUCTOSE CORN SYRUP AND THE NEED TO REVIEW POLICIES OF THE GOVERNMENT ON THE IMPORTATION OF SAID SWEETENER TO PROTECT THE INTERESTS OF OUR SMALL FARMERS, AGRARIAN REFORM BENEFICIARIES AND THE DOMESTIC SUGAR INDUSTRY

Introduced by Senators Zubiri and Gordon

**To the Committees on Agriculture and Food; and Trade, Commerce and Entrepreneurship**

Proposed Senate Resolution No. 286, entitled

RESOLUTION CONGRATULATING AND COMMENDING THE PHILIPPINE ARCHERY TEAM FOR WINNING THE OVERALL CHAMPIONSHIP IN THE 6<sup>th</sup> SOUTHEAST ASIAN OPEN ARCHERY CHAMPIONSHIPS THAT WAS HELD ON JANUARY 19 TO 26, 2017 AT YANGON, MYANMAR

Introduced by Sen. Maria Lourdes Nancy S.

**To the Committee on Rules**

Proposed Senate Resolution No. 287, entitled

RESOLUTION ESTABLISHING THE SENATE INSTITUTE ON LEGISLATIVE STUDIES AND TRAINING CENTER (SILSTC) FOR THE CONTINUING EDUCATION AND TRAINING PROGRAM OF THE SENATE SECRETARIAT AND THE SENATORS' STAFF AND THE PROVISION OF CONTINUING TRAINING AND LEGISLATIVE STUDIES RESEARCH SUPPORT TO THE MEMBERS OF THE SENATE, AND FOR OTHER PURPOSES

Introduced by Sen. Aquilino "Koko"  
Pimentel III

**To the Committee on Accounts**



Proposed Senate Resolution No. 288, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON LOCAL GOVERNMENT AND OTHER APPROPRIATE SENATE COMMITTEE(S) TO CONDUCT A REVIEW OF REPUBLIC ACT NO. 7160 OTHERWISE KNOWN AS THE "LOCAL GOVERNMENT CODE OF 1991," WITH THE END IN VIEW OF ENHANCING ITS PROVISIONS TO MAKE THEM MORE EFFECTIVE IN PROMOTING LOCAL AUTONOMY, AND TO RECOMMEND MEASURES TO FURTHER STRENGTHEN THE LOCAL GOVERNMENT UNITS

Introduced by Sen. Aquilino "Koko"  
Pimentel III

To the Committee on Local Government

#### SPECIAL ORDER

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 35 on Senate Bill No. 209 from the Calendar for Ordinary Business to the Calendar for Special Orders.

#### COMMITTEE REPORT NO. 35 ON SENATE BILL NO. 209

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 209 (Committee Report No. 35), entitled

AN ACT DECLARING THE TWENTY-FIFTH DAY OF AUGUST OF EVERY YEAR AS THE NATIONAL TECH-VOC DAY.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Sotto, 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 Villanueva for the sponsorship.

#### SPONSORSHIP SPEECH OF SENATOR VILLANUEVA

Senator Villanueva, on behalf of the Committee on Labor, submitted for plenary consideration Senate Bill No. 209, entitled "An Act Declaring the Twenty-Fifth Day of August of Every Year as The National Tech-Voc Day," under Committee Report No. 35.

*The full text of Senator Villanueva's sponsorship speech follows:*

#### STEPPING UP SKILLS THROUGH A "NATIONAL TECH-VOC DAY"

I stand before you to sponsor Senate Bill No. 209 or "An Act Declaring the Twenty-Fifth Day of August of Every Year as the National Tech-Voc Day" with the belief that if we pay increased attention to tech-voc as a nation, we can harness its power in creating jobs, increasing our workers' productivity, securing the future of our industries, and achieving inclusive growth and sustainable development.

Tech-voc is not only an important pillar in the country's human resources development, but it is also crucial to the fulfillment of the basic rights to education and to work. The International Labor Organization in its 2015 recommendation concerning technical and vocational education and training (TVET), stated that "tech-voc is understood as being part of both the universal right and the right to work."

*Hindi po hiwalay sa karapatang makapag-aral at makapagtrabaho ang tech-voc bagkus, kasama o kaakibat ito.*

Tech-voc encompasses training and education, jobs, and lifelong learning. According to ILO, "tech-voc is understood as comprising education, training and skills development relating to a wide range of occupational fields, production, services and livelihoods...As part of lifelong learning...it includes work-based learning and continuing training and professional development which may lead to qualifications. Tech-voc also includes a wide range of skills development opportunities to national and local contexts."

*Pwede nga pong ihalintulad ang tech-voc sa isang "Swiss army knife" – magagamit saan man o kailanman dahil ito ay mabilis, matipid pero masinsin at angkop sa pangangailangan ng mga industriya.*

Tech-voc is a veritable instrument for poverty reduction because it is shorter in duration, rapid, cost-effective, flexible, and job-oriented.



This is what businesses and entrepreneurs need right now.

*Bakit po ba itinutulak ng Committee on Labor Employment and Human Resources Development ang panukalang ito?*

In many parts of the globe, tech-voc is set as a national and regional priority.

According to the Organization for Economic Cooperation and Development (OECD), "a highly skilled labour force is increasingly important for economies to remain competitive and achieve sustainable growth. Effective skills strategies can play a significant role in helping national economies to adjust to changes in working practices, advances in technology, and challenges associated with globalization."

For its part, the Asian Development Bank (ADB) stressed that "the evolution of skills development for employability, or tech-voc, has become the cornerstone of policy priorities of many countries in Asia."

The United Nations Educational, Scientific and Cultural Organization (UNESCO) made clear that "external demands on tech-voc systems go far beyond the familiar call for tech-voc to contribute to economic growth, employment and competitiveness. Today, tech-voc is considered to be a crucial vehicle for social equity and inclusion, as well as for the sustainability of development."

In 2010, the World Bank issued a report prefaced by the statement, "Skills, and skills development are an essential component of all efforts in creating jobs, increasing productivity especially for developing countries that are seeking to grow in an inclusive way and reducing poverty."

Undeniably, the special recognition given to tech-voc by these international organizations attests that prioritization of tech-voc is a global trend, it is an integral component of the ASEAN integration, it is an important pillar of the country's overall human resources development strategy.

But unfortunately, tech-voc is still regarded as "second rate" and perceived to be suited only for the poor or less intelligent individuals. Your Committee believes that this negative perception about tech-voc will change through the observance of a National Tech-Voc Day.

Let me cite some accomplishments in the tech-voc sector from 2010 up to now under the Duterte administration:

For the past seven years, over 13 million Filipinos graduated in various tech-voc courses, majority of them or 65% found employment locally and abroad. *Ito man po ay* directly supervised by TESDA institutions or the private sector. Of course, this is considering that some of the trainees took multiple courses which opened up a lot of opportunities for them in terms of employment and livelihood. Our scholars even registered an employment rate of 70% and has even reached 96.4% in specific sectors like the semiconductor and electronic industry.

The numbers prove that since the creation of TESDA on August 25, 1994, as part of the Education Commission recommendations, the tech-voc sector in the Philippines provided opportunities to our *kababayans* who have the willingness to devote their time and energy improving their lot in life.

Through an effective information campaign, expansion of scholarship programs at the barangay level, private sector engagement, quality-assured systems, together with the implementation of the Philippine Qualifications Framework (PQF), more Filipinos will change their outlook about tech-voc.

*Ang observance ng National Tech-Voc Day ay magiging daan para iangat ang dignidad ng mga blue-collar workers tulad ng mga kapwa ko barista at mga bartenders, plumbers, carpenters, welders, household workers, drivers, cooks, dressmakers, graphic designers, call center agents, at iba pa. Nakakalungkot po na hanggang ngayon, second-rate pa rin ang tingin sa katayuan nila.*

It is possible to change this perception because more and more Filipinos see that blue-collar jobs offer some real advantages, there are jobs available for tech-voc graduates and oftentimes the pay is even greater than white-collar work.

Your Committee believes that highlighting the importance of tech-voc can help us face challenges, take advantage of opportunities, and widen the prospects of tech-voc system in the Philippines.

What are these challenges and opportunities?

The first challenge is economic disparities in the country. In the 2016 competitiveness rankings of provinces, the province of Rizal got the highest index of 35.7, while Capiz got only 6.2, the lowest among 74 provinces. This was reported by the National Competitiveness Council, 2016.

*ms mk*

We can adjust the scope and means of delivery of tech-voc as a means to confront economic challenges in various parts of the country.

Through tech-voc, we can also take advantage of the growing market and exciting production possibilities in different parts of the country, especially in Mindanao. Our young population makes our country attractive to Foreign Direct Investments. In fact, the Philippines is now among the top 15 preferred investment destinations of multinational enterprises in the next three years, according to the latest World Investment Report 2016 of the United Nations Conference on Trade and Development (UNCTAD).

Based on studies, tech-voc can also address the skills needs of micro and small enterprises and new and emerging industries, especially renewable energy and green industries.

The second challenge is the shortage of workers for high-technology qualifications. We believe that the supply of high-technology workers is one of the key factors for doing business in the Philippines.

There should be an extensive promotion of tech-voc to ensure that our workers will get the necessary skills demanded by the labor market. If more Filipinos go to tech-voc, we can also encourage innovation and entrepreneurship and promote the use of English language and ICT. Tech-voc training will ensure movement to high labor productivity.

In relation to this, this Representation filed the "*Tulong Trabaho*" bill to ensure the productivity of our workers and to assist our industries in providing competency enhancement to existing workers through a *Tulong-Trabaho* Fund.

The Committee on Labor, Employment and Human Resources Development is also set to hear this Wednesday the Apprenticeship Reform bill. The bill aims to increase productivity and competitiveness of enterprises by ensuring supply of skilled human resource through work-based learning.

The third challenge is the low enrolment in tech-voc programs especially in hard-to-fill occupations. Hence, we should continue our consultation with the industries to face challenges related to the relevance of curricula, poor-quality instruction and infrastructure, and the absence of certification frameworks that meet the standards of employers.

Innovative approaches, especially work-based learning and mobile learning online

training, can boost participation in tech-voc programs, especially in the TVET track in our senior high schools.

Finally, the country has several laws recognizing various professions and fields of specialization by declaring a certain day, week or month of the year for them. I personally believe that tech-voc workers also deserve our attention by declaring August 25, the founding anniversary of TESDA, as the National Tech-Voc Day in the Philippines.

A National Tech-Voc Day, a special working holiday, can boost the confidence of our workers to face the world of work.

It is very clear to us that tech-voc plays a key role in realizing both universal right to education and to work, people-oriented and socially responsible community, and the full potential to deliver more and better jobs. But, as I have mentioned, many challenges persist if the "tech-voc *lang*" mentality remains.

Through the promotion of tech-voc and adequate government and private sector support, we can create more jobs, increase the productivity of our workers, secure the future of our industries and achieve inclusive growth and sustainable development.

*Hindi ko po sinasabing kulang sa pansin ang tech-voc, siguro ay dagdag na pagtingin sa mas maraming bilang ng mga Pilipinong nagpapagulong ng ating ekonomiya.*

Let us pass Senate Bill No. 209 and, hopefully, we can use the celebration of the first National Tech-Voc Day this August 25, 2017 to hasten our progress in stepping up skills in the country.

## MANIFESTATION OF SENATOR LEGARDA

Senator Legarda congratulated and associated herself with Senator Villanueva in his effort to give importance to technical vocation which is specially significant for those who may not have the capacity to go to college, including the 50 million indigenous peoples, an undertaking that she, Senator Villanueva and the National Commission on Culture and the Arts (NCCA) had been working for in the past. She believed that declaring a Tech-Voc day and giving focus to the nation's tangible and intangible heritage which can be taught in tech-voc education, will not only provide jobs and livelihood but would also conserve and preserve the cultural heritage.



For his part, Senator Villanueva thanked Senator Legarda for being fully supportive of the initiative.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 209**

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

#### **COMMITTEE REPORT NO. 24 ON SENATE BILL NO. 1284**

*(Continuation)*

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1284 (Committee Report No. 24), entitled

AN ACT COMPELLING THE GOVERNMENT TO ADDRESS THE TRANSPORTATION AND CONGESTION CRISIS THROUGH THE GRANT OF EMERGENCY POWERS TO THE PRESIDENT.

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

#### **SUSPENSION OF SESSION**

Upon motion of Senator Sotto, the session was suspended.

*It was 3:43 p.m.*

#### **RESUMPTION OF SESSION**

At 3:46 p.m., the session was resumed.

Upon resumption, the Chair recognized Senator Poe, sponsor of the measure, and Senator De Lima for her interpellation.

#### **INTERPELLATION OF SENATOR DE LIMA**

Asked by Senator De Lima whether granting emergency powers to the President is the proposed solution to the traffic congestion crisis, Senator Poe replied in the affirmative.

On whether the existence of an emergency situation is presumed because the traffic congestion

problem in the metropolitan areas such as the greater Manila area and Metro Cebu is of crisis proportion, Senator Poe explained that the traffic problem constitutes a crisis since it is not only a financial burden to Filipinos due to the estimated P3 billion being lost daily but is also a burden to the quality of life that is being compromised by the situation.

Asked for the difference between a crisis and an emergency, Senator Poe replied that an emergency is a situation that needs to be dealt with immediately, while a crisis would have many different levels. She explained that certain crises need to be addressed at the soonest possible time while others would be put in the back-burner not because of choice but due to certain limitations or semantics. However, she said that a government should prioritize addressing a crisis situation if it has the capability to do so.

Asked if the remedy for a crisis would be the grant of emergency powers, Senator Poe replied that it is not true for all situations. She stated that the President has the power to declare a state of national emergency even without the authorization of Congress; however, the exercise of emergency powers, such as taking over privately owned public utilities or businesses affected with public interest requires a delegation from Congress and that it is national in scope. She said that there are certain provisions in the bill that would grant the President these necessary powers to solve the traffic crisis. Although not all crises would entail a national emergency delegation, she believed that when it comes to acquiring certain rights of way, consolidating powers to one traffic czar, and limiting the powers of the local government units would entail certain discretions that would not be allowed without an emergency power.

Asked if it ever crossed her mind that there could be more viable options to address the traffic crisis short of the grant of emergency powers, Senator Poe pointed out that while admittedly there are existing laws that aim to roll out solutions to the traffic crisis, those have not been consolidated. She also noted that the Local Government Code does not allow for certain actions by the national government that could expedite the solution to the traffic crisis. She said that although initially hesitant about the idea of granting emergency powers, she realized that such matters should be considered to empower the national government to work quickly on the matter.

Responding to the suggestion that a more liberal kind of authority, like a crisis power with a term, may

*P Poe*

be considered in lieu of emergency powers, Senator Poe mentioned three issues that were highlighted during the public hearings: first, a traffic and congestion crisis existed in certain cities; second, current laws do not adequately provide for the means to expeditiously and effectively solve the crisis, while some laws even create roadblocks to acting promptly in implementing a cohesive solution; and third, there is a clamor for a shift to a more dependable and accessible transportation system. Hence, she said that the bill proposes the grant of emergency powers to the President or his designated officer, to enable him to utilize all necessary government resources, exercise his power fully, and employ measures intended to directly address the traffic and congestion crisis.

To Senator De Lima's concern that the emergency power, which is really an extraordinary power, could be abused, Senator Poe explained that aside from the fact that existing laws are not sufficient to allow for the consolidation of authority to a traffic central authority, there are many roadblocks in securing permits created by the entities that should be facilitating the expeditious rolling out of projects. She believed that the crisis would not be addressed quickly without the grant of emergency powers to unify existing laws.

As regards the observation that the enumeration of specific emergency powers that could be granted to the President through an alter ego as presented in the bill does not intend to give all-encompassing powers to the Chief Executive, Senator Poe agreed, pointing out that Senate Bill No. 1284, in fact, provides not only safety measures that would ensure that these powers granted would not be abused but also penalties and incentives to ensure that it is a bill that looks at all angles of expeditiously rolling out other solutions to the traffic crisis.

Replying to the comment that an emergency power cannot be an all-encompassing or broad power since it has to be very clear and specific powers, Senator Poe said that a Joint Congressional Oversight Committee would look into how those powers would be exercised. She gave assurance that all actions related to the proposed law would be transparent, and that everything would be published and made known to the public accordingly through websites and other different portals.

Asked if all the powers being given to the President through his deputy, or the traffic crisis manager, are in the nature of emergency powers,

Senator Poe answered in the affirmative, but she clarified that the President can revoke and change the designated head or traffic czar. She also reiterated that there would be a congressional oversight committee that could make recommendations concerning the situation as well as a traffic advisory council composed of experts in the field, members of the academe, from the private sector, local government and NEDA that could give advice to the traffic czar.

On another matter, Senator De Lima noted the inconsistency in Sections 3 and 6 concerning the scope of emergency powers. She pointed out Section 3 refers to the application and effectivity of the projects that would have immediate, significant and measurable impact on the land-based traffic crisis in the greater Metro Manila and Metro Cebu, while Section 6 defines the authority of the traffic crisis manager as one that would "have all the authority to implement a policy framework and manage agency functions over land, air and seaport traffic." She pointed out that if the emergency powers also cover air and seaport, then it would go beyond the intent of the measure since the emergency and crisis situation being addressed is land traffic congestion.

Although traffic is usually associated with land traffic, Senator Poe clarified that transportation is all connected. While the opening paragraph of Section 3 only mentions land-based traffic, she said that the enumeration in the same section included the adoption of other measures, such as the decongestion of seaports, the development of a new airport and the improvement of the Manila International Airport. She explained that since air and sea traffic contributes to the congestion of land-based traffic in roads leading to those facilities, it is time to look for alternative airports and seaports outside Metro Manila, as well as build more roads or rails that would connect the airports to major financial districts.

Senator Poe said that she had received information that Clark could be a viable option for airport operations as well as provide harbor and seaport facilities, while Batangas could provide supplementary seaport operations if it is developed. She also believed that the proposal to expand the airport services in Bulacan and completing the intermodal transport system is of vital importance. With the grant of emergency powers, she said that the identification of common stations would be fast-tracked, inter-modal transport hubs would be constructed quickly, and even the choice of airport location would be coordinated with the planned

land-based transport system. With regard to ports, she said that the Batangas port may be utilized by the southern part of NCR to lessen cargo within the metropolis or within financial centers.

Senator De Lima stated that at the proper time, she would propose amendments with regard to the seeming inconsistency between Sections 3 and 6. If the intent is to cover even air and seaport traffic, she said that it has to be made clear in the declaration of the objectives and scope under Section 3.

Senator De Lima sought clarification on whether the projects and programs to be implemented in the exercise of the emergency powers being granted to the President through the traffic crisis manager would only pertain to greater Metro Manila and Metro Cebu. This, as she pointed out that even though the proposed measure is supposed to be limited in scope, application and effectivity to these areas, Section 3 gives the traffic crisis manager the authority to implement similar systems and mechanisms in Davao City, Cagayan De Oro City, Lipa City, Baguio City, Iloilo City and other highly urbanized cities and municipalities suffering from a land traffic crisis.

For the record, Senator Poe said that greater Metro Manila refers to the National Capital Region, which include Antipolo, Taytay, Binangonan, and Angono in the province of Rizal; San Pedro, Biñan, Sta. Rosa, Cabuyao and Calamba in the province of Laguna; Bacoor, Imus, Kawit, Noveleta and Cavite City in the province of Cavite; and San Jose del Monte, Obando, Marilao, Meycauayan, and Bocaue in the province of Bulacan while the cities and municipalities included in Metro Cebu would include Cebu, Mandaue, Talisay, Danao, Lapu-lapu, Carcar, San Fernando, Naga, Minglanila, Consolacion, Liloan, Compostela and Cordova.

Senator Poe clarified that the traffic crisis manager may implement similar systems and mechanisms in the areas mentioned by Senator De Lima based on an existing master transportation plan. As there is no master plan for those areas at present, she said that the traffic crisis manager cannot simply exercise his emergency powers without basis and go ahead implementing projects without the approval of NEDA.

Upon query, Senator Poe confirmed that the mandate of the traffic crisis manager would cover not only the greater Manila area and Metro Cebu,

but also other highly-urbanized cities like Davao, Cagayan de Oro, Lipa, Baguio and Iloilo.

On whether the Traffic Crisis Action and Development Plan, the Transportation Master Plan, and the Transportation Reform Plan all refer to the same plan, Senator Poe answered in the negative, saying that certain projects mentioned in one plan may not be mentioned in another. Upon passage of the bill into law, she said that the DOTr would be given 30 days to submit a Traffic Action Plan integrating the priorities from the various studies or traffic proposals given by legitimate organizations, and sufficiently detailing the concrete steps that should be taken to immediately address the problem and considering, among other things, the local development investment program, of LGUs. She said that the plan would consolidate all the different plans submitted since some are for short-term while others are for long term. Considering that the emergency powers to be granted would only be good for the remaining years of the 17<sup>th</sup> Congress, she said that it would be impossible to achieve all proposals, hence priorities should be submitted.

Senator De Lima assumed that since the exercise of emergency powers is time bound, specifically only up to the adjournment of the 17th Congress, the projects contemplated in the grant of the emergency powers would pertain only to short-term projects. In reply, Senator Poe said that there are already several projects that have already been started, such as the NLEX-SLEX connector and other projects that have been forecasted in the long-term, but the short term-projects would impact and benefit more from the proposed measure. She said that should the emergency powers be granted, the government would be able to secure right-of-way properties that would facilitate the construction of infrastructure projects without having to go through the tedious process of planning and securing the necessary permits. She opined that to include the long-term projects under the purview of the emergency powers would make it easier for government to roll out the long-term projects as long as the process is transparent and approved by NEDA to be part of the master plan.

But Senator De Lima cautioned that if long-term plans, programs and projects are contemplated under the proposed measure it would mean that they would also benefit from the alternative methods of procurement when they should only benefit priority projects within the limited period covered by the emergency powers.

Senator Poe said that she saw nothing wrong if long-term plans, programs and projects would benefit through a faster rolling out period. She said that the Committee does not want a band-aid solution but something that would address the traffic crisis in the short term before it could become a full-blown crisis. With regard to specific projects that could benefit from the grant of the emergency powers, Senator Poe cited the following projects as examples: the BGC-link road project which will serve as an alternative to EDSA and C5 which is in the short- to medium-term; the MRT capacity expansion, a short-term project; and the LRT Line 6 Bacoor to Cavite which is in the medium term, from 2017 to 2020.

Senator De Lima noted that the projects enumerated by Senator Poe are actually short-term to medium-term projects that are not priority projects identified by NEDA. Senator Poe replied that the projects she mentioned are still priority projects. She said that the LRT extension to Bacoor, Cavite is actually a short- to medium-term project which has to be started already because it is a big project, it would take time to be completed, and there are problems that it has to hurdle such as relocation of informal settlers and right-of-way acquisition which she hoped to be addressed with the emergency powers.

Senator De Lima then asked if all the projects covered by the proposed measure shall be subjected to alternative methods of procurement and not just the so-called priority projects as defined by the bill as those identified by NEDA to be implemented from 2017 to 2019.

Senator Poe said that as long as the project has NEDA approval, the government could go ahead and exercise the emergency powers to be able to pave the way for its implementation, whether in the short or long term. However, she said that even if it is a long-term project that could be undertaken through the exercise of emergency powers within the 17<sup>th</sup> Congress, it should be encouraged. She said she understood Senator De Lima's apprehension about the alternative sources of bidding that may be employed even to projects that may not be considered priority because of the emergency powers. She assured Senator De Lima that the bill provided for safeguards to ensure that it would not be abused.

Senator De Lima acknowledged that among the emergency powers that may be granted would be the resort to alternative methods of procurement.

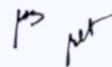
She said that as long as the projects are identified to be necessary, and a priority that could be set in motion within the limited duration of the emergency powers, then the alternative methods of procurement would be acceptable. However, she expressed concern that the emergency power to resort to alternative methods of procurement may be applied to other non-priority projects.

Senator Poe said that the reason for the measure is that traffic has been identified as a national emergency, a crisis that is so large in scope. She said that situations or circumstances identified as a national emergency under RA 9184 or the procurement law may already use alternative sources of bidding as provided by law. She assured that there are safeguards in the bill, among which are: it should be FOI-compliant; that in case of liability for priority projects, the following shall be ultimately responsible when applicable: for contract violations, non-compliance with the procurement law and other applicable offenses in relation to the implementation of the priority projects, the traffic crisis manager, when acting as head of procurement; the head of the procuring or contracting agency; the chief executive officer or president and members of the board of directors of the supplier; contractor or private concessionaires can be held solidarily liable with each other. She said there is also a Congressional Oversight Committee which shall monitor the implementation of the law, composed of six members from the Senate and the House of Representatives; there would be a report mechanism where the Executive shall submit a quarterly report to Congress; and there are penalties for violations or non-compliance with the act that qualify as a criminal offense in which the maximum applicable penalty shall apply.

Senator De Lima lauded Senator Poe for ensuring that the bill would have safeguards and accountability provisions but she expressed doubts on the wisdom of allowing or authorizing alternative methods of procurement even with respect to non-priority projects.

Senator Poe said that during the period of amendments, she would welcome any suggestion from Senator De Lima regarding the matter to ensure that the bill would not be subject to abuse. She said that the GPPB and NEDA would also be drafting guidelines to identify which are the priority projects.

On the matter of the Transportation Crisis Management and the Office of the Traffic Crisis



Manager, Senator De Lima said that the House version of the bill places the responsibility of the traffic crisis manager to the transportation secretary, while the Senate version provides that whoever would be appointed as the traffic crisis manager would be an official with a cabinet rank and a personality distinct from the transportation secretary, and the office shall be a new office attached to the Office of the President. Asked by Senator De Lima on the rationale behind the difference, Senator Poe said that the President was being given the prerogative to assign the traffic czar as provided under Section 6 of the bill. She recalled that during the committee hearings on the bill, all the stakeholder agencies agreed on the need of having one traffic manager who shall be supported by an advisory council. She explained that the traffic manager should not be distracted from performing other responsibilities. She said that the transportation secretary, in addition to urban transport, has to look after the airport, seaports, navigational aids, regulations of airlines and shipping companies, among others. She said that the DOTr is just one of the implementing agencies that include DICT, DPWH and MMDA which all have to work under the traffic crisis czar. The transportation secretary is already burdened with so many concerns that he might not be as effective in playing a dual role as a traffic crisis manager, she added.

### INQUIRIES OF THE CHAIR

At this juncture, Senate President Pro Tempore Drilon agreed with Senator Poe's observation that the transportation secretary is burdened with many other functions so that as traffic crisis manager he may not be able to devote full attention and time to the problem of traffic. He said that in reality, a portion of the major problem in Metro Manila would be the 15 Metro Manila mayors who are traffic managers in their respective cities. He said that in EDSA alone, there are about six city mayors which would put in their inputs in the management of EDSA. He asked whether there would be some merit in putting the transportation secretary in charge of traffic crisis management, at least in Metro Manila, so that he would have a rank that would have to be followed by the Metro Manila mayors. He expressed concern that a traffic crisis manager would just be treated as a manager by the 15 Metro Manila mayors and would not follow whatever plans for the management of traffic in Metro Manila.

He said that this is the principal change that he wanted to insert during the period of amendments.

Senator Poe expressed apprehension on the automatic appointment of the transportation secretary as traffic crisis manager after the approval of the bill. She said that the President can designate any other person who may have the expertise and flexibility to do more things and considering that the position would have a cabinet rank.

Asked by Senator Drilon whether during the period of amendments she would be open to a provision which would grant authority, under proper standards, to the traffic crisis manager to suspend any rule or regulation of the LGUs in Metro Manila which, in his or her view, is an obstruction to the better management of traffic in Metro Manila, Senator Poe replied in the affirmative. She said that under Section 16 of the bill, provisions of the Local Government Code requiring prior consultation with, and approval of local government units with respect to traffic-related problems within their localities, as well as provisions requiring the issuance of building permits and all other powers of the local government shall be suspended when it comes to the traffic projects that are being implemented by the traffic crisis manager. She said that Section 9 of the bill also allows the traffic crisis manager to override local ordinances in conflict with the provisions of the law.

Senator Drilon said that since there was no disagreement between him and Senator Poe on the matter, at the proper time, they can review the sections of the bill that she cited with the end in view of strengthening it and making it clear that with certain standards that have to be complied with, the traffic manager is clearly authorized to suspend the enforcement of certain municipal ordinances which could, in his view, unduly interfere with his authority to manage the traffic crisis. He cited, for example, the need to remedy the different rules on color coding in the different jurisdictions of Metro Manila, each insisting on its own rule.

Agreeing with Senator Drilon, Senator Poe mentioned that in Section 22, the power of the traffic crises manager was actually strengthened because any local government official who would not comply with the law could be penalized with imprisonment of not less than one year and not more than 10 years, or perpetual disqualification from holding any public office. She said that if the Body feels that the last penalty is too harsh, such provision could be amended.



**INTERPELLATION OF SENATOR DE LIMA***(Continuation)*

Still on the issue of who may be exactly designated as a traffic crisis manager (TCM), Senator De Lima surmised that although the bill does not rule out the DOTR secretary to be the TCM, the choice of the drafters of the proposed measure is somebody else and not the transportation secretary.

Senator Poe replied in the affirmative, saying that the President has the prerogative to appoint the DOTR secretary, any cabinet member or any ordinary citizen to the position as she expressed hope that the person appointed is competent to perform the job, an excellent manager and results-oriented.

Since the proposed measure does not exactly rule out the transportation secretary to be the TCM, Senator De Lima believed that Section 6 needs some modifications because it seems to give the impression that it is a different office which is to be attached to the Office of the President. She said that while the Department of Transportation is under the executive department, it is not necessarily attached to the Office of the President.

Senator Poe replied that there is a need to clarify such provision on the proposed measure to avoid subjecting it to different interpretations and more confusions.

Assuming that the DOTR secretary would not be appointed as the TCM, Senator De Lima noted that the DOTR secretary is not part of the proposed composition of the Traffic Crisis Advisory Council. Senator Poe admitted that it was an oversight on the part of the Committee, and she expressed willingness to consider amendments to the proposed measure to include the DOTR secretary in the advisory council.

Adverting to Section 16 on the temporary suspension of the issuance of certain permits and licenses for the projects covered by the Act, especially the priority projects, Senator De Lima noted that this provision would serve to temporarily suspend certain provisions of the Local Government Code, the National Building Code, the provisions requiring Environmental Clearance Certificates (ECCs) from the DENR, and provisions of the Labor Code requiring clearance and permits for the employment of foreigners. She then asked why there is a need to temporarily suspend such necessary permits and licenses. She said that if

the purpose of Section 16 is to fast-track and expedite the transportation projects as proposed under the measure, the Committee may consider mandatory provisions that would allow the permits to be obtained through a much lesser period than what is currently provided for in the law, especially that of the ECC or building permit.

Senator Poe agreed to consider the points raised by Senator De Lima during the period of amendments that a permit be issued within a certain number of days. She explained that the motive sometimes for non-issuance of certain permits is not so much on the non-compliance with the requirements but for political concerns, the reason why certain guidelines have to be made clear. She said that one safeguard that she can think of is during the NEDA deliberations, the local government unit can be part of it so that all the stakeholders could voice out their objections. Senator De Lima said that at the proper time, she would propose an alternative provision to Section 16.

As regards Section 17, or the right-of-way for the projects covered by the proposed bill, Senator De Lima asked if the provision covered priority projects only or for all transportation projects. She noted that Section 17 is broader because it does not only cover priority projects but it is also applicable in the acquisition of rights-of-way, project sites and relocation sites through negotiated sale and not through expropriation. She explained that under the Right of Way Act, the modes of acquiring real property other than negotiated sale would also be through donation and expropriation.

Senator Poe said that expropriation was removed from the bill because it is a longer process. She explained that in acquiring the right of way, especially for private properties, what is followed is actually the law on the acquisition of right of way by giving not just the zonal but the market value of a particular property. She said that there is also the safeguard for the homeowner because sometimes even the property owner will stall, and court cases will drag on. Thus, under the bill, she said that the government has the right to acquire property for the public good, and the government will place the actual amount in escrow at Landbank. She added that RA 10752 allows for renegotiation with the homeowners as well as their relocation.

Since the first rule is negotiated sale, Senator De Lima noted that if the government and the lot owner would not agree on the sale, the government would

just immediately take possession of the property after depositing in escrow with Landbank the fair market value instead of going to court for expropriations proceedings. Senator Poe agreed, saying that the affected parties could always go to the Supreme Court as the last resort. She explained that the Committee was trying to eliminate all the other steps that some people undertake through the lower courts to stall a particular project. She said that the Supreme Court could issue a TRO if the deal is disadvantageous and if it tramples on the rights of the property owner.

Senator De Lima stated that the general rule is that no court, except the Supreme Court, can issue a TRO. She then asked if the prohibition on the issuance of TROs and injunctions applies only to priority projects or to all transportation projects under the bill.

Senator Poe replied that any transportation project that will be deemed by the TCM as something that would ease traffic congestion, whether in short or long term, could be part of the bill, but it has to go through a certain process and must obtain the approval of the NEDA.

#### **INTERPELLATION OF SENATOR EJERCITO**

Preliminarily, Senator Ejercito said that one of the weaknesses of the country's economy is weak infrastructure. As regards construction of cell sites, he noted that the traffic crisis manager is mandated to streamline and limit the number of licenses, certificates and permits necessary to construct cellular sites in the country which are geared towards the improvement of Internet connectivity in the country. Relative thereto, he asked if the lack of cellular sites is the reason the country has a mediocre and disappointing Internet speed and service wire telcos.

Senator Poe replied that it is one of the reasons, saying that during the public hearing with the DICT and the DOST, the suggestion was more cell sites. She said that the government should also be able to build infrastructure with fiber optic capabilities, and that in constructing all the new roads, there should be coordination with the DOST, the DICT and the DPWH so that all these provisions could be included. Because the government wants to encourage alternative forms of work, she stressed that there is a need for faster Internet speed to be able to encourage people to telecommute.

Agreeing with Senator Poe, Senator Ejercito said that the plans would certainly help address one of the weaknesses of the nation's infrastructure which is the slow Internet. He commended Senator Poe for introducing provisions to make the proposed bill FOI-compliant. He then asked how to make the implementation of the bill under consideration more transparent to the Filipino aside from maintaining a separate website. Addressing first the issue on cell sites, Senator Poe pointed out that the Philippines has 20 cell sites all over the country, Vietnam has 55,000, and Thailand has 8,000; that in the Philippines, 5,000 people share one cell site although the ideal is only 1,000; Laos has 900 and Vietnam, 970.

Senator Poe disclosed that at present, there are 3,000 pending permits for cell sites and cable right-of-way, and she noted that for every cell site, it would need 25 permits; the length of time to get a permit is one year; each permit is good for one year, which is renewable; the cost to build a cell site, including the friction cost or under-the-table fee is between P500,000 to P1 million. She said that the provider would have to go through the same ordeal every year.

As regards the number of Global System for Mobiles (GSM) networks in the Philippines, Senator Poe stated that there should be 67,000 but are less than 20,000 put up. She asserted that given the data, there is indeed a crisis and that it needs to be addressed the soonest possible time.

As to how the proposed agency can be FOI-compliant, Senator Poe stated that there should be transparency and right to information and for this purpose, there would be a separate website for the publication of complete and accurate information on all matters relating to the exercise of the emergency power; and that the status of the priority projects would also be posted in the website. Moreover, she said that the website would also indicate contract violations, non-compliance with the procurement law and other offenses. She stressed that violations of this transparency provision would be penalized accordingly.

In addition to the website, Senator Poe stated that the proposed joint congressional oversight committee would require the TCM to submit a quarterly report, and failure to do so would constitute a violation punishable under the law.

Adverting to the concern expressed earlier by Senate President Pro Tempore Drilon, Senator Ejercito

*MS*  
*NE*

stated that the proposed measure intends to hasten and expedite all big-ticket items in addressing the transport crisis the soonest possible time by creating another office but he expressed concern that it would add another layer of bureaucracy, considering that the TCM would have a rank of a cabinet secretary.

Responding thereto, Senator Poe explained that the TCM would not be a new department, only that the office of the traffic crisis manager would give him/her the rank and benefits of a member of the Cabinet. She recalled Senate President Pro Tempore Drilon mentioning that local government executives would rather listen to a manager with a cabinet rank. Also, she likened the TCM to a surgery team: the manager is the head surgeon who directs the surgery team; there is no need to build a hospital because there are existing agencies; the surgery team works together on a patient who is in need of dire medical attention; once the operation is complete, the members of the surgery team go back to their respective functions. She stated that while others think that Secretary Tugade is the most qualified person to take on the task by default, others believe that the TCM should have a unique expertise for the job. She stressed that the bill is giving the President the prerogative to determine who the TCM would be and that it does not have to be limited to the default leadership of the DOTr secretary.

On another matter, Senator Ejercito thanked Senator Poe for prioritizing the bill considering that the country's infrastructure development is 15 to 20 years behind. He believed that the proposed measure should have been passed a long time ago. He then urged the Body, as co-chair of the committee, for the immediate passage of the bill which should have been passed a long time ago, and he then commended Senator Poe for her efforts in prioritizing the measure.

In response, Senator Poe acknowledged that Senator Ejercito's concern is due to his advocacy for many years. She believed that all the enrichment classes and study tours have probably made him a technical expert in rail. She said that it was a privilege to have someone like him backstop the committee's initiative.

In addition, Senate President Pro Tempore Drilon stated that being a former mayor of San Juan, Senator Ejercito knows about managing the traffic in Metro Manila and in dealing with the MMDA. He believed that the Chamber could draw a lot of inputs

from Senator Ejercito on the power to be given to the proposed crisis manager vis-à-vis the local government units in Metro Manila.

Thereafter, Senator Poe stated that although all the bills are of national importance, it would defeat the purpose of giving an emergency power if the bill would not be prioritized by everyone. She then appealed to the Body to give priority to the measure. She urged everyone to manifest or interpellate so that the period of interpellations could be terminated soon.

#### **INTERPELLATION OF SENATOR VILLANUEVA**

Senator Villanueva stated that according to the American Chamber of Commerce, Metro Manila would become uninhabitable by 2020 if the roads and collective transportation system are not immediately improved. He also cited the Chamber of Automotive Manufacturers of the Philippines, Inc. (CAMPI) which projected that vehicle sales are set to reach 500,000 by 2020. He surmised that the projection data and time-and-motion studies conducted by NEDA and other agencies may have relied primarily on existing traffic situations in Metro Manila. But he predicted that the increase of motor vehicles would substantially increase by 2021 and beyond, and that even with the passage of the proposed measure, increasing infrastructure and road systems may not be sufficient to meet the simultaneous increase in vehicles plying the roads of the metropolis.

Asked if the NEDA took into consideration the substantial increase in motor vehicles by 2020 and beyond when it helped craft the proposed measure, Senator Poe replied in the affirmative, saying that they also considered the projected population growth. She explained that the bill seeks to address the traffic congestion situation with short-term solutions that could be started and completed within the three-year grant of emergency powers, as well as long-term solutions that would go beyond 2020. She recalled Senator De Lima raising the same concern earlier and that it was clarified that priority projects do not necessarily pertain to short-term but also include medium- to long-term projects. She cited Section 11 of the bill which provides that the traffic manager and agencies are mandated to develop a transportation master plan for Greater Metro Manila and Metro Cebu which should be in the nature of medium-term and long-term plans. She added that the same section

*ms Not*

specifically mentioned two master plans based on studies conducted by NEDA and JICA: for Metro Manila – Roadmap for Transport Infrastructure Development, approved by the NEDA Board in June 2014; and for Metro Cebu – Roadmap Study for Sustainable Development in Metro Cebu, approved by the NEDA Board in July 2015.

On whether the bill would provide for decentralization of usage of major highways and seek the permission of subdivisions to use private roads through the LGUs, Senator Poe stated that decentralization could happen if it would mean building alternative highways that would lead to the Cavite-Laguna Expressway, NLEX-SLEX Connector and the Central Luzon Link Expressway and which would give the people the option to work in one area and live in another because of the efficiency of the road network, thus, decentralizing and encouraging growth to move beyond Metro Manila.

Senator Villanueva expressed his support for the bill considering that he is from Bulacan and that many of his provincemates are looking forward to the enactment of the bill.

Senator Poe pointed out that Bulacan is central to the plan and would benefit greatly from the emergency powers because of 1) the fast-tracking of common station; 2) the intermodal transport terminal located in San Jose del Monte; and 3) the possible construction of an airport in Bulacan.

Asked to cite examples of vested rights and liabilities whose lifespan would essentially extend the period of time in Section 27, Senator Poe clarified that both Houses of Congress, through a joint resolution, can withdraw the authority granted to the Executive if the Congressional Oversight Committee finds that the traffic and congestion crisis has been abated. She explained that “vested rights and benefits” are the valid contracts, projects, programs, action plans formulated, studied, approved and implemented by the government that would still subsist even after the validity of the emergency powers. She stated that if it is above-board and has fulfilled the requirements, there is no reason for the government to dissolve the contract. She said that it is not expected that all projects entered into or fast-tracked would be completed during the period of the emergency powers. However, she maintained that by granting the emergency powers, it is expected that the projects would start immediately.

Thereafter, she encouraged the Body, considering the limited time given for the emergency powers, to look into creating laws that would institutionalize the changes that they want to see, which are actually working already. As an example, she said that if the Body sees that having a traffic crisis manager makes things more efficient, it could pass a law that even after the emergency powers law has expired, it could still go on.

On whether another legislation is needed to address the crisis in case the problem persists beyond the specified time, Senator Poe replied that the exercise of emergency powers is limited only in the 17<sup>th</sup> Congress. She reiterated her plea that if there are certain programs that needed to be made permanent, the Body could file the necessary legislation so that the programs would still continue even after the law has expired.

At this juncture, the Chair inquired why it cannot be included in the proposed bill itself.

Senator Poe stressed the need to ensure that the programs that the Body wants to institutionalize are working, and at this time, they do not know exactly which particular provision in the emergency powers can be mandated to go on beyond the emergency powers. She noted that there are also certain laws, like the Procurement Law, that already allows certain powers to be exercised. She stressed the need to harmonize the proposal with current laws and suggested that a separate bill be crafted if Senator Villanueva would want that a permanent position for the traffic crisis manager be created. She said that such proposal could be deliberated simultaneously with the bill granting emergency powers to the President.

Asked if the contracts signed during the period of emergency in the exercise of the emergency powers would be honored during the period of emergency, Senator Poe answered in the affirmative, saying that such contracts should serve as guiding principles for the people to remind them to honor contracts with the government. Senator Villanueva stated that he would also propose to give the Joint Congressional Oversight Committee a leeway and opportunity to recommend and suggest certain provisions that could help continue the implementation of the law even after the expiration of the emergency powers.

As regards Section 9 on the power of the traffic

*net ps*

crisis manager to suspend ordinances and regulations that are “inimical or contrary to the borderless flow of people, goods, and motor vehicle,” Senator Villanueva asked whether said functions could not be considered as an infringement on the power of the local governments to enact laws intended for the general welfare of the locality. Senator Poe agreed that the provision would limit the power of LGUs over traffic priority projects. However, she stated that limiting the power of LGUs is what the measure is aiming at so that the local governments could not create too many roadblocks. She added that the government must act expeditiously because it is in an emergency crisis and the traffic crisis manager has to look at the bigger picture. Further, she said that the traffic crisis manager must be empowered to harmonize all traffic laws and capacitated enough to suspend local ordinances that might result in traffic gridlock between cities, as she reminded that all LGUs are contiguous with each other. She likened the role of the traffic manager to a conductor of an orchestra who ensures that all the members are playing the same tune. However, she pointed out that local ordinances may be suspended only after giving a five-day notice and only for the duration of the grant of emergency powers, which is less than three years. She added that the role of the LGUs is crucial on concerns like land use planning, traffic enforcement and resettlement of informal settler families, especially in the Traffic Advisory Council. She noted that emergency powers could also help the local and national governments to extend financial assistance to LGUs in relocating informal settlers.

Senator Villanueva cited Section 10 which provides that the Traffic Crisis Action and Decongestion Plan shall include prohibition against and designation of parking areas on certain roads. He recalled what DOTr Secretary Tugade said during the committee hearing that in the spirit of principle of low-lying trees, the department has already taken steps to ensure that roads are not used as parking lots. Also, he said that one way of solving traffic is to consider the suggestion of Senator Sotto to keep the inner streets unobstructed by parked cars. Relative thereto, he informed the Body that he filed Senate Bill No. 1165 or the No Garage, No Car Act.

Senator Poe opined that the concerns of Senator Villanueva are valid as she admitted that among the concerns raised was how to grant emergency powers to someone who could not even attend to things that are already right in front of him, although it is the

MMDA and not the DOTr that has jurisdiction over the matter. She said that the MMDA has reported more than 4,500 illegally-parked vehicles from July to December last year and apprehended more than 13,000 colorum vehicles, but the problem really, she said, is that the MMDA could not enforce the parking ban on certain localities that are being regulated by the local government.

At this juncture, Senator Drilon asked whether the traffic crisis manager has the power to revoke a city or municipal ordinance which authorizes the collection of parking fees along public streets and which provides the basis for parking in all narrow roads and earn income out of it. Replying in the affirmative, Senator Poe believed that for those that will be identified as roads with traffic problems, the ordinances could be revoked. Senator Drilon agreed, pointing out that streets all over Metro Manila are not supposed to be parking zones, but sadly, parking has been allowed and has become a source of income for the municipality, putting public interest at the bottom of the heap when traffic is snarled because of the legally authorized parking spaces. Thus, he hoped that the measure would include such power on the part of the traffic crisis manager. Senator Poe noted the suggestion.

Senator Villanueva, for his part, associated himself with the suggestion of Senator Drilon.

Asked by Senator Villanueva to define the words “certain roads” in Section 10 which prohibits the designation of parking areas on certain roads, when all roads are supposedly intended for the passage of vehicles, Senator Poe explained that the roads that would be identified or referred to as “certain roads” are actually the main roads used by drivers, as well as some roads, like the Mabuhay Lanes, which are alternate roads that are not supposed to be too busy but are being utilized as parking areas on certain hours.

Senator Poe stated that in reality, not everybody would heed the call of government to have garages in their houses as well as require business establishments to have ample parking area because the word “ample” could be defined in different ways. Thus, she stressed that the government should identify places where to park the cars. Senator Villanueva hoped that the government could pinpoint major roads where there is traffic congestion or traffic problems.

Expressing his support for the measure especially on exploring alternative forms of working, Senator

Villanueva informed the Body that his Committee has concluded the hearing on telecommuting. He noted Section 12 which provides that private and public entities shall be allowed to adopt and implement "telecommuting, tele-learning, tele-presence, car-pooling, share-a-ride programs, flexible working hours and school days, staggered schedules of attendance, and similar transport demand management schemes." He expressed his appreciation to Senator Poe for including the provision in the measure.

Asked whether it is the intention of the measure to allow employers to adopt certain work schemes, or whether the proviso is optional, Senator Poe replied that private entities would not be required or compelled to adopt the schemes. She noted that in the bill crafted by Senator Villanueva, the proviso allows for the adoption of telecommuting as a voluntary agreement between employers and workers, but the current measure plans to make telecommuting more enticing and profitable for companies. She said that the objective of the scheme is to increase productivity following the evaluation of the nature of the work and its suitability for telecommuting.

Senator Villanueva agreed that telecommuting should be voluntary and suggested that the first step would be for the employers to evaluate what work schemes that could best fit the telecommuting program.

Senator Villanueva also noted that the bill provides for the development of a traffic education program for drivers and pedestrians which shall be integrated in the senior high school curriculum. He said that he also filed Senate Bill No. 1126 or the Pedestrian Safety Act, which aims to enhance traffic laws by respecting the right of way of pedestrians as well as mandating for the training of erring drivers and pedestrians.

Asked whether an amendment would be accepted to include a provision requiring drivers to be taught traffic rules as a prerequisite in getting or renewing licenses thereof or even to drivers whose licenses were confiscated for traffic violations, Senator Poe answered in the affirmative, adding that many traffic problems are caused by lack of discipline or just simply ignorance. She lamented that some of those taking the test to acquire driver's licenses do not even understand or could not read the regulations. She suggested that applicants be made to watch video or online programs so that they could fully understand traffic regulations. She said that she also

filed a bill on pedestrian safety but assured that the suggestion of Senator Villanueva would be included in the period of amendments.

On Section 16, Senator Villanueva noted that the provision mandates the temporary suspension of a proviso in the Labor Code of the Philippines which requires clearances and permits for the employment of foreigners with regard to foreign technicians and experts working in traffic-related projects for the duration of the effectivity of the Act. Relative thereto, he disclosed that during the hearing of the Committee on Labor, Employment and Human Resources Development jointly with the Blue Ribbon Committee, they found out that illegal Chinese workers have freely entered the border. He recalled Senator Hontiveros suggesting in one of her interpellations about the drafting of a joint memorandum between the Department of Labor and Employment and the Traffic Management Council.

Senator Villanueva asked how the law could ensure that foreign workers would not overstay after the completion of the project. He also asked on the subject of the joint memorandum or whether the memorandum requires another inter-agency effort such as with the Bureau of Immigration of the Justice Department. He said that he asked the questions because he discovered during the hearing the many loopholes especially in protecting the Filipino workers.

In reply, Senator Poe stressed that the temporary suspension of the employment permit for foreign experts and technicians would give the country the benefit of technology transfer. However, she stated that all overstaying alien workers must still comply with the country's labor and immigration laws over which the DOLE and the BI have jurisdiction. She said that the DOLE has put safety nets as required in the Labor Code by issuing Alien Employment Permits only after a determination of the non-availability of a Filipino who is competently able and willing, while the BI would issue its own guidelines on overstaying aliens through the imposition of penalties. She added that under the Immigration Act, employers shall be liable for concealing, harboring or employing overstaying aliens and shall be penalized with fines and imprisonment. She pointed out, however, that dismissal by the employer does not relieve him of the offense.

Senator Villanueva stated for the record that he too has discovered a lot of loopholes, for instance, in

the issuance of Alien Employment Permits (AEPs) which is supposed to be done only by the DOLE. He said that during the hearings, it was discovered that the CEZ has issued working permits to workers at Clark Air Base. Thus, he said that he would like to be clarified as to who would be accountable for the foreign workers who are found to have stayed beyond the duration of the project considering that the sole authority of issuing AEPs would be the DOLE.

Senator Poe assured Senator Villanueva that since the traffic crisis manager would hold a cabinet position, he may enter into a joint memorandum with the DOLE secretary to further protect Filipinos during the validity of his emergency powers. Also, she said that in conjunction with the emergency powers, there could be a MOA as regards who would be mainly responsible in protecting the rights of Filipino workers and thereafter, penalize those who enter into an agreement through the emergency powers without complying with the Labor Code.

Senator Villanueva said that he only wanted to ensure that the rights of Filipino workers were protected as they should be the first to benefit from the program.

To the scope of the bill which was limited to Metro Manila and Cebu, Senator Villanueva asked why the Clark Airport Development Plan was included in the Traffic Crisis Action and Decongestion Plan. Senator Poe said that the Clark Airport in Pampanga was specifically included because there are already existing studies to improve Clark. However, she noted that any initiative or project must have NEDA's approval to be included in the emergency powers list, upon the recommendation of the TCM. In the meantime, she said that since the only available complete study with NEDA's approval was Clark, it was specifically mentioned as an example in the bill.

As regards the airport in Subic, Senator Poe affirmed that it was also included considering the plan for an integrated seaport in Bulacan.

Senator Villanueva believed that the Senate should thoroughly discuss the grant of emergency powers to ensure safeguards that would protect the interest of the people and, at the same time, expeditiously address the traffic crisis. He expressed full support for the bill, saying that it would solve traffic woes in metropolitan areas of the country

inasmuch as everyone is affected by the worsening traffic condition. In fact, he disclosed that the former NEDA secretary has previously stated that the Philippines is losing P2.4 billion/day in potential income due to traffic congestion which could have been utilized instead to more productive endeavors.

Thereupon, he thanked Senator Poe for his opportunity to interpellate on the measure.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1284**

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

#### **COMMITTEE REPORT NO. 17 ON SENATE BILL NO. 1271**

*(Continuation)*

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1271 (Committee Report No. 17), entitled

#### **AN ACT PROHIBITING DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY OR EXPRESSION (SOGIE) AND PROVIDING PENALTIES THEREFOR.**

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

Thereupon, the Chair recognized Senator Hontiveros, sponsor of the measure, and Senator Pacquiao for his interpellation.

#### **INTERPELLATION OF SENATOR PACQUIAO**

Prefatorily, Senator Pacquiao stated for the record that he fully supports the "Anti-Discrimination Act." Senator Hontiveros thanked him thereafter.

Asked if cross-dressing is considered as a gender expression, Senator Hontiveros affirmed that cross-dressing is one of the acts which are considered part of gender identity as it was defined as the personal sense of identity or expression characterized by manner of clothing, inclinations and behavior in

*not no*

relation to masculine or feminine conventions. Because cross-dressing is one of the expressions of gender identity and gender expression, she said that any prohibition, punishment or discrimination to one's sexual orientation and/or gender identity particularly in his/her manner of clothing, is unlawful and punishable. But Senator Pacquiao pointed out that the Bible speaks only of two kinds of person, man and woman.

To Senator Pacquiao's concern that cross-dressing could be abused or employed as a means to commit a crime, Senator Hontiveros averred that as in the Bible, the bill also recognizes a person's gender as either a male or female, but, it varies with respect to his/her SOGIE. Moreover, she stated that she has not come across a statement in the Bible directing what should be the proper way of dressing. In fact, she pointed out that the Bible teaches openness and acceptance irrespective of one's character and this embraces the concept of SOGIE.

As regards cross-dressing, she maintained that nobody should be constrained from expressing his/her character especially the way he/she dresses, and the bill addresses all forms of discrimination and violence on the basis of SOGIE of every person including one's clothing style. She stated that the proposed measure was prompted by cases of discrimination that were documented by the advocates who were against discrimination including the LGBTIQ community although sadly, discrimination and abuse is continuously occurring on some individuals particularly the LGBTIQs mainly because their SOGIE was reflected in the clothes they wear.

To Senate Pacquiao's fear that cross-dressing may be used to commit fraud or some other crime, Senator Hontiveros pointed out that there are countless special laws in the country aside from the Revised Penal Code, which penalize discriminatory and hate crimes like sexual harassment, unjust vexation, fraud, voyeurism and acts of lasciviousness, among others. She reiterated that the main focus of the Anti-Discrimination Act is discrimination or violation against expression of gender identity. Quoting Galatians 5:14, "For the entire law is fulfilled in keeping this one command: Love your neighbor as yourself," she believed that the entire law was fulfilled in keeping only one, highest command which combines all other orders and that is to "love your neighbor as you love yourself," regardless of preference to SOGIE.

Senator Pacquiao stated that his concern on the implication of cross-dressing was prompted by the case of Jennifer Laude who was killed by US Marine Lance Corporal First Class Joseph Scott Pemberton after the American discovered that Jennifer was a transgender. Senator Hontiveros pointed out that on October 11, 2014, the victim was found dead in a motel room in Olongapo City wherein her neck was pressed down on the toilet seat and her head was shoved into the toilet bowl; thereafter, Pemberton was found guilty of homicide by Olongapo RTC Branch 74 and was sentenced from six to 12 years of imprisonment. She asserted that there should be no victim-blaming as Jennifer only dressed up based on her SOGIE; hence, she should not be blamed for her own murder inasmuch as the manner by which she died was considered a hate crime.

As he expressed his condolences to the family, Senator Pacquiao said that in view of Jennifer's concealment of his true identity, the charge against Pemberton was reduced from murder to homicide. He said that Jennifer Laude was also at fault since she did not reveal that she was male.

Senator Hontiveros hoped that the various institutions in the society, specially the Judiciary as the last resort for redress of grievances, would open their minds to gender sensitivity, SOGIE and discrimination based on SOGIE. As regards the claim that Pemberton physically assaulted and killed Jennifer because he was surprised to learn her true identity, she said that the "trans-panic" defense has been discredited in the US, hence it cannot be accepted as basis to lessen the punishment or pardon of the accused.

Senator Hontiveros also pointed out that Jennifer Laude remained true to her sexual orientation, gender identity and gender expression. She reiterated that trans-gender panic defense was never an acceptable defense for crimes like physical injuries or murder. Therefore, in the aforementioned case, she said that the one at fault was Pemberton and not Jennifer Laude.

On whether there is anything in the bill that would prevent the use of cross-dressing as a means to commit fraud and if the penalty for such deception could be included in the bill, Senator Hontiveros replied that there are existing laws to penalize crimes like fraud and estafa. She believed that if Pemberton's defense that his actions were a reaction to learning

that he was with a transwoman, then he should not have killed Jennifer Laude but only charged her with fraud instead. She stated that the case of Laude is an example of what the bill seeks to protect – any citizen who would be discriminated against or abused based on their SOGIE, which is not yet within the purview of current laws. She also believed that a person who falls for such a deception would not always retaliate by inflicting injury or murder.

Senator Hontiveros said that it would be wrong to equate cross-dressing with fraud. For instance, she noted that Jennifer Laude remained true and consistent in her expression gender identity.

To the concern that some people might cross-dress not to express their gender identity but to commit crimes, Senator Hontiveros reiterated that since there are laws in place to penalize such offenses, cross-dressing should not lead to hate crimes. She also mentioned that women also wear jeans, while Irish men wear kilt, which could be interpreted as genuine expressions of sexual orientation, gender identity, or culture.

Senator Pacquiao believed that men should wear men's clothing while women should wear women's clothing, and it is also stated in the Bible that men and women should not cross-dress.

At this point, Senator Sotto interjected to clarify the points raised by Senator Pacquiao, as well as point out the issue on toilets. He said that Senator Pacquiao wanted to know how to prevent crimes that might be committed because of cross-dressing. He disclosed that he had been discussing this particular point with Senator De Lima, especially with regard to the issue of toilet use. He recalled that Senator Hontiveros had previously confirmed that a male transgender or cross-dresser may be allowed to use a woman's toilet, and he feared that a criminal might cross-dress to commit crimes like voyeurism, robbery, etc. If these were the case, he proposed that the bill exclude toilets in the list of establishments or facilities which can be shared with people of different SOGIE. He also mentioned the proposal of Senator De Lima to make cross-dressing an aggravating circumstance if it would be used to commit a crime.

For his part, Senator Pacquiao reiterated his concern that it would be easy for a man to pretend to be gay and enter into a toilet for women.

At this point, Senator De Lima said that Senator Sotto's proposal on the exclusion of toilets from areas accessible to people of different SOGIE is a very difficult and practical question to which she has no answer at present.

On the statement of Senator Pacquiao that the charge of murder against Pemberton was downgraded because he was deceived by Jennifer Laude, Senator De Lima pointed out that the murder charge against Pemberton was not downgraded to homicide because Laude had deceived him but it was due to the absence of any aggravating circumstance in the commission of the crime – no evident premeditation, treachery nor abuse of superior strength. She added that fraud or misrepresentation of gender in committing a crime may be considered as a qualifying circumstance or aggravating circumstance, but it should not be considered a circumstance of the victim that should be penalized. She stressed that what should be penalized is the fact that the person took advantage and used cross-dressing as a means to commit a crime.

Senator Hontiveros thanked Senator De Lima for the clarification on the Jennifer Laude case and on the definition of the role of cross-dressing in the commission of crimes.

Regarding the queries of Senator Sotto, Senator Hontiveros said that laws on fraud, voyeurism and other crimes are already in place; therefore, those individuals who would use cross-dressing not as an expression of identity but for committing crimes would be penalized by present laws. She asked whether Representative Geraldine Roman would be considered a fraud just because she is representing herself according to her sexual orientation and gender identity.

On the matter of comfort rooms, she said that schools, employers, establishments and government agencies should be reminded that comfort rooms are meant to provide comfort; it is a place wherein an individual should be comfortable to express himself/herself. She said that there is no evidence of a transwoman harassing another woman in bathrooms and that males who will dress as women to harass women inside bathrooms are neither encouraged nor protected by the bill because the males are not expressing their gender identity. She said that as earlier mentioned, acts of harassment remain to be punished as acts of lasciviousness or sexual harassment, as the case may be. She said that it would be

Net MS

absurd to think that in the absence of evidence, a man would cross-dress and enter a woman's comfort room with the intent of harassing a woman. She reiterated that transgender people also need to feel comfortable in comfort rooms.

Senator Hontiveros disclosed that there are already gender-neutral bathrooms in the country which can be accessed by individuals whatever their sexual orientation, gender identity and expression.

On the matter of fraud, she said that it is a function of a criminal mind and not a function of sexual orientation, the latter being a natural and positive aspect of an individual in accordance to God's creation.

She expressed her appreciation to the points made by Senators Pacquiao and Sotto and said that she would go back to her research and look into data, information or evidence that would show incidents of sexual assault or abuse committed in gender-neutral toilets.

Senator Pacquiao expressed his concern that the proposed measure might allow a straight man wearing men's clothes but pretending to be gay, to openly and freely enter restrooms or comfort rooms for the exclusive use of women.

Senator Hontiveros said that a gay man may use a gender-neutral comfort room. However, in the absence of a gender-neutral comfort room, she believed that a gay man would prefer to use a male comfort room to relieve himself and not use the women's comfort room because he does not identify himself as woman but as a gay man, and according to his sexual orientation, gender identity and expression.

Senator Pacquiao expressed concern that the measure might be used by a straight man who would pretend to be gay and dress up in women's clothes and enter a woman's comfort room with the end in view of abusing a woman.

Senator Hontiveros said that the circumstance or example cited by Senator Pacquiao constitutes fraud which is not covered under the purview of the bill and, as such, is covered by laws against sexual harassment, unjust vexation or sexual assault or abuse depending on the situation or circumstances in relation to the illegal acts committed.

Senator Pacquiao said that he wanted the measure to be clear that gay men in male clothes are prohibited from entering the women's comfort rooms. Senator Hontiveros said that she would look into the merits of Senator Pacquiao's proposed amendment and see whether it remains faithful to the spirit and intent of the bill which is to punish discrimination against sexual orientation, gender identity and expression.

#### **FURTHER INTERPELLATION OF SENATOR SOTTO**

Asked by Senator Sotto what was meant by the word "queer" on page 3, line 20 of the bill, Senator Hontiveros said that "queers" refer to individuals who neither identify themselves as straight, gay, lesbian, bisexual, transgender or intersex; they are not genderless but individuals who do not wish to be identified or labeled according to sexuality, sexual orientation and gender identity.

Senator Sotto suggested the need to put a definition of the term "queer" in the bill.

As to which comfort room "queer" individuals should be using, Senator Hontiveros said that they should be using gender-neutral toilets.

Senator Sotto said that during the period of amendments, he would be proposing the provision of gender-neutral comfort rooms or toilets in buildings or establishments.

On the matter of discriminatory practices specifically with respect to dress codes, Senator Sotto asked whether the bill would cover a straight man wearing a sleeveless or collarless shirt to enter establishments such as the Sta. Elena Golf and Country Club or the Alabang Country Club which do not allow people wearing sleeveless or collarless shirts into their premises. Replying in the negative, she said that the bill protects discrimination on account of sexual orientation, gender identity and expression but that a dress code is the way of an institution to identify itself according to its image. She clarified that the bill seeks to protect individuals from instances or circumstances, such as the denial of entry in restaurants of television personalities Inday Garutay and BB Gandanghari because of cross-dressing.

Senator Sotto expressed concern that the bill could be looked at as class legislation only in favor of SOGIE should it not apply to a straight man who

*MS*

wishes to enter a restaurant wearing only a “wife-beater” shirt.

At this point, Senate President Pro Tempore Drilon asked whether it would be a violation of the proposed measure if a SOGIE is not allowed entry to a certain establishment because of a dress code. He asked where or how one draws the line in case of refusal or denial of entry in an establishment on account of dress code or sexual orientation, gender identity and expression.

Senator Hontiveros said that there is a clear difference between dress code standards — formal, semi-formal, casual – and the exercise of sexual orientation, gender identity and expression. She said that in the cases of *Inday Garutay* and *BB Gandanghari*, they followed the formal dress code but were nonetheless denied entry because of cross-dressing which is a form of discrimination against SOGIE. She said that it would be wrong if a dress code discriminates a class of people, for instance, when asking a Muslim woman to take off her veil, especially as it is an expression of her religiosity and spirituality.

Senator Sotto stressed the need to find a good balance in implementing the measure. He cautioned that the law might discriminate against others on account of social class or for other reasons, like in cases of dress codes and in connection with sexual orientation, gender identity and expression.

Senator Sotto cited for example that if he were a SOGIE and he entered the Sta. Elena Golf and Country Club with collarless shirt and he was removed from the establishment, then he can file an anti-discriminatory act against the establishment based on the bill once it becomes a law; on the other hand, if he is not a SOGIE and the club removed him because he was wearing a collarless shirt, he could not do anything but leave.

Senator Hontiveros replied that if the club has a dress code that prohibits collarless shirt both for the SOGIE and straight, then it is fine. It is when distinctions are made based on SOGIE, she said, that discrimination exists.

Senator Sotto said that problem in the case of *Inday Garutay* and *BB Gandanghari* was that the establishment thought that the dress code for women should not be worn by men. Senator Hontiveros

remarked that the wearing of formal, semi-formal or casual dresses goes across the issue of whether one is SOGIE, straight or otherwise. She reiterated that it is when distinctions are made based on SOGIE that discrimination exists.

Senator Sotto agreed that there is anti-discrimination when applicants for employment would not be accepted because of SOGIE. He said that his concern was with the dress code and toilet issues but he would address those matters during the period of amendments.

Moving back to the matter on dress code, Senator Hontiveros noted that the Senate has a dress code but there has never been a Member of the Chamber who was a cross-dresser so that she would love to see the day when a brilliant lawmaker, like Rep. Geraldine Roman of Bataan, would come to the Senate cross-dressing. She believed that nobody would stop Representative Roman from doing it because it is his sense of expression.

Senate President Pro Tempore Drilon said that it is not a question of cross-dressing but of whether or not a straight person or a transgender who is not following the dress code will be treated similarly. He stressed that it is not a question of prohibiting trans-dressing but it is a question of similar treatment to people similarly situated. Senator Hontiveros stated that it is precisely what the proposed bill seeks to address.

#### **SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1271**

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

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

Senator Pangilinan stated that there were supposed to be interpellations on the coco levy measure that day, seventh on the agenda. He requested that it be rescheduled the following day but placed ahead of the other measures.

Senator Sotto replied that he was informed by some interpellators that they were not yet ready hence their interpellations on the coco levy measure were postponed. He informed the Body that the first



item of the agenda the following day would be Senator Escudero's AMLA bill but he would make sure the coco levy fund would be the second.

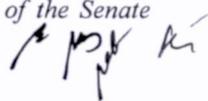
Senator Pangilinan said that he prepared a timeline and chart on the coco levy fund as he expressed hope that the following day, after the Body took up AMLA, he would be allowed to present the timeline and chart in order to shorten the interpellation.

#### ADJOURNMENT OF SESSION

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

*It was 6:36 p.m.*

I hereby certify to the correctness of the foregoing.

  
ATTY. LUTGARDO B. BARBO  
*an* Secretary of the Senate  


Approved on February 14, 2017