

RECORD OF THE SENATE

WEDNESDAY, AUGUST 7, 2002

OPENING OF THE SESSION

At 3:54 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The seventh session of the Second Regular Session of the Twelfth Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Renato L. Compañero Cayetano.

Everybody rose for the prayer.

PRAYER

Senator Cayetano.

Almighty Father, we acknowledge that we are Your servants to fulfill Your word and to serve our people.

Recent events in this Chamber might have led our people to think otherwise but we do not blame them.

For we know that they expect nothing less from us whom they have chosen to serve them;

And that they share the hope of every member of this Chamber for a peaceful, plentiful and progressive Philippines.

Thus, we humbly implore Your divine will in our united resolve to heal the wounds of the past and start anew.

Help us restore the faith of our people in us and in this Chamber,

All these we ask in the name of Jesus

And for Your eternal glory.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

Senator Edgardo J. Angara Present
Senator Teresa Aquino-Oreta *

* On official mission

Senator Joker P. Arroyo	Present
Senator Robert Z. Barbers	Present
Senator Rodolfo G. Biazon	Present
Senator Renato L. Compañero Cayetano ...	Present
Senator Noli "Kabayan" De Castro	Present
Senator Luisa "Loi" P. Ejercito Estrada	Present
Senator Juan M. Flavie	Present
Senator Gregorio B. Honasan	Absent
Senator Robert S. "JAWO" Jaworski	Present
Senator Panfilo M. Lacson	Present
Senator Loren B. Legarda Leviste	Present
Senator Ramon B. Magsaysay Jr.	Present
Senator John Henry R. Osmeña	Absent
Senator Sergio R. Osmeña III	Absent
Senator Francis N. Pangilinan	Present
Senator Aquilino Q. Pimentel Jr.	Present
Senator Ralph G. Recto	Present
Senator Ramon B. Revilla	Absent
Senator Vicente C. Sotto III	Present
Senator Manuel B. Villar Jr.	Present
The President	Present

The President. With 18 senators present, there is a quorum.

Senator Legarda Leviste. Mr. President.

The President. The Majority Leader is recognized.

THE JOURNAL

Senator Legarda Leviste. Mr. President, I move that we dispense with the reading of the *Journal* of the sixth session, August 6, 2002, and consider it approved.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Senator Legarda Leviste. Mr. President, I move that we proceed to the Reference of Business.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

July 31, 2002

In other words, he is creating a special band or pool of private prosecutors occupying a preferred position in the prosecution service with powerful function. As I said, the Office of the Prosecutor is one of the most, if not the most, powerful in the field of criminal law because he can send an innocent person to jail on his mere say-so.

So, Mr. President, the statement that all these can be corrected by amendment I believe is almost nearly impossible because the philosophy of the mother law and the philosophy impelling him to introduce this proposal are quite contradictory. One cannot survive with the mother proposal unless we now change the mother proposal.

Senator Pangilinan. Mr. President, I think it is a practice in the Senate that indeed we accept at the proper time amendments to a particular bill. We have, in fact, in the past submitted bills as part of the amendatory process. And I am appealing, of course, to the good senator from Baler that perhaps through the amendatory process, we may be able to address his concerns. If I follow the arguments, following the deliberations and interpellations for the absentee voting bill, there are amendments that are to be accepted. But that does not mean that we should refer the absentee voting bill back to committee.

So, Mr. President, this is an appeal really. I disagree, with all due respect, of course, with the gentleman from Baler and Aurora, that this has to go back to the committee. I feel that plenary would also be sufficient in terms of addressing what he believes to be certain safeguards that are not available based on the bill as it is being deliberated on.

Senator Angara. There is no similarity between the two situations—the absentee voting law and this particular bill—because the amendments being proposed during the interpellation are all consistent with one philosophy, and that is to grant overseas Filipinos the franchise.

But here, Mr. President, the very proposal itself contradicts the philosophy of the mother proposal, and that is to graft into the Ombudsman Law a system of private prosecution. A pool of prosecutors without accountability, without objective accepted standard qualifications, without sanction if they commit any malfeasance or misfeasance. True, they are under the supervision of the Ombudsman, but there is no sanction prescribed if anyone of them commits any misfeasance or malfeasance.

So in other words, Mr. President, the very proposal itself is alien to the mother proposal being amended.

Mr. President, the Ombudsman Law, as I said, is the tribune in the Ancient Greek. In Ancient Greece, a Tribune, it is the one who brings the grievance of the citizen to the public and tries to

redress it. That is the main philosophy of the Ombudsman Law, and if he needs assistance, he is required to tap—he is required, it is mandatory—a lawyer already in government service. And to repeat: Why a lawyer already in government service? Because these lawyers are sworn to do justice to every man. They are subject to the Code of Conduct and Ethical Standards that we are all bound to. They are subject to the Anti-Graft Law. They are required to file their statement of assets and liabilities which none of these private prosecutors will be required.

So that is my point, Mr. President. There is absolutely no parity in circumstances or even in philosophy within the absentee voting bill and this particular proposal.

Mr. President, I have many more questions to ask, and let me ask for a few minutes so as to allow the rest to ask their questions, but I would like to reserve my right to interpellate and ask more questions.

The President. All right. The Majority Leader is recognized.

Senator Legarda Leviste. Mr. President, I move to suspend the period of interpellations on this measure.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Legarda Leviste. I thank the sponsor, Senator Pangilinan.

SUSPENSION OF CONSIDERATION OF S. NO. 1945

I move that we suspend consideration of Senate Bill No. 1945.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

BILL ON SECOND READING

S. No. 2101 — Instituting a Balikbayan Program (Continuation)

Senator Legarda Leviste. Mr. President, I move that we resume consideration of Senate Bill No. 2101 as reported out under Committee Report No. 38.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2101 is now in order.

Senator Legarda Leviste. I move that we recognize the sponsor, Sen. Noli “Kabayan” De Castro, chairman of the Tourism Committee. We are in the period of interpellations.

To interpellate, I move that we recognize the Minority Leader, Sen. Aquilino Q. Pimentel Jr.

The President. Senator De Castro is recognized.

Senator Pimentel is likewise recognized for the period of interpellations.

Senator De Castro. Thank you, Mr. President. *Salamat po.*

Senator Pimentel. Will the sponsor yield for a few questions, Mr. President?

Senator De Castro. Of course, Mr. President, it is an honor from the famous good senator from Cagayan de Oro and Mindanao.

Senator Pimentel. I will no longer ask questions on that premise, Mr. President. *[Laughter]*

Mr. President, kidding aside. Number one, I would like to find out from the sponsor if he will kindly explain. What are the safeguards that he would impose in this bill to make sure that the additional benefits given to the *balikbayan* would really go to the purpose for which these are intended?

In other words, under this proposal a *balikbayan* can buy I think some equipment for various kinds of livelihood.

Senator De Castro. Yes, Mr. President, worth US\$1,000.

Senator Pimentel. That is about P50 to a US\$1 under the current rate of exchange and these are, I suppose, tax-free transactions, duty-free transactions.

Senator De Castro. Yes, Mr. President, duty-free.

Senator Pimentel. Therefore what is to prevent a *balikbayan* from selling these items once he steps out of the duty-free shop, Mr. President?

Senator De Castro. Mr. President, if we are talking about safeguards: No. 1, the shopping privilege is only for the amount of US\$1,000 and that is P50,000 *sa* present conversion *ng* dollar to peso. It is only a one-time privilege and that the proposed bill fully ensures that it will benefit the *balikbayan* especially our overseas Filipino workers.

So other safeguards here, Mr. President, *ang ibapa po diyan*, the Customs people are monitoring even the warehouse of the duty-free shops or the Duty Free Philippines including the release of merchandise from the warehouse or the store and then monitoring of the Customs people upon purchase of the *balikbayan* of the product. So *lahat po ay namu-monitor para maiwasan iyong* abuse of the privilege.

Senator Pimentel. We understand what the distinguished gentleman is saying, Mr. President. Of course, this bill intends to benefit the *balikbayan* by extending such a benefit to him, a certain amount that would otherwise go into the coffers of government by way of tariff or customs duties or taxes are, sort of, waived in his favor precisely to benefit him. So there is no question about the purpose of the bill to benefit the *balikbayan*.

The question that I am trying to raise is: What if the *balikbayan* already gets the goods or the merchandise and he steps out of the place where he buys the items and then turns around to sell the product to a department store, for example, Mr. President, which in turn will resell the items at a higher price probably, but obviously without the taxes that should have been imposed were it not for the fact that these items are now covered by the distinguished gentleman's proposed bill?

Senator De Castro. According to the Duty Free Philippines people here, ang duty po na ini-impose sa livelihood tools is only 10%, Mr. President. Una, iyong katanungan po ng magiting na senador na iyong guarantee that these tools will be used by the *balikbayan* for the intended purposes, mahirap po nating i-monitor because it is not mandatory sa ating batas na i-monitor iyong *balikbayan* na nag-avail ng *Kabuhayan* Program. Kaya iyong tiwala na lamang po natin that the program is for their benefits ay nandoon na lamang.

Ngunit kung sasabihin natin na ibibenta sa department stores or not only to a department store, but to an individual maybe, hindi po natin maiiwasan iyon, Ginoong Pangulo, dahil hindi mandatory sa batas na i-monitor natin na pagkatapos mabili iyong produkto ay sisiguraduhin natin. But the OWWA people are offering, especially the overseas Filipino workers training for their choice kabuhayan, but this is not again in our bill. Hindi po mandatory ang training because iyong problema sa funding ng training. Maganda nga sana na before they can avail themselves of the kabuhayan shopping privilege ay mag-undergo muna sila ng training under OWWA, or TESDA and other government agencies that can provide training for them para sa kabuhayan po nilang papasukan, Ginoong Pangulo.

Kaya hindi ho mandatory sa ating batas iyong monitoring kung saan mapupunta o kung talagang gagamitin sa kabuhayan program ng isang balikbayan ang bumili ng kabuhayan tools sa Duty Free Philippines. But the Duty Free Philippines can monitor iyong purchase ng kanilang produkto up to two years dahil computerized sila.

Kaya makikita po natin kung every year ay binibili ng isang balikbayan are the same tools for kabuhayan, Mr. President.

Senator Pimentel. From the gentleman's answer, Mr. President, it looks like the program is really a giveaway for the

benefit of duty-free shops, not necessarily for the benefit of the *balikbayan*. It looks like the benefit for the *balikbayan* would only be incidental under a program where it is not defined just exactly what kind of tools would a particular *balikbayan* need for a specific activity.

Because as worded, at present, it looks like the bill would grant the privilege to just any *balikbayan* going there and he would be at liberty to choose which items he wants to buy up to a maximum of P50,000 or US\$1,000.

It looks to me like it is so much a waste of money actually, Mr. President, which would otherwise benefit the government if it were done through normal transactions rather than allowing duty-free shops to, sort of, corner the market without anything by way of customs duty going to government under the circumstances and without any safeguard as to whether or not, first, the item will go to the purpose for which it is intended; and, second, whether the one buying has the necessary expertise to use the items that he is buying under the setup.

So that, it looks like, probably, the first thing to do is to make sure that a *balikbayan* who wants to avail himself of this privilege would have to show that he is qualified to use the items himself. Because if it is not required of him, that means that in all likelihood the items will go for resale to other people.

Senator De Castro. Mr. President, we come up with this US\$1,000 for the *Kabuhayan* Program because according to OWWA, request ito ng mga balikbayan to provide for them a *Kabuhayan* Program. Even OWWA came up with a list of potential *kabuhayan* for our *balikbayan* and there are several *kabuhayan* lists that the OWWA prepared for our *balikbayan*.

During the committee hearing, Mr. President, inulit po ng OWWA ang kanilang request of our *balikbayan* so we considered the same as well as iyong mga tools na kailangan for the *kabuhayan*.

Napag-alaman din po namin sa committee during the hearing that an automotive shop, for instance, the tools that it will need would amount to more than US\$1,000. This is not to mention the equipment needed by the shop. So we formulated that the existing shopping privilege, which is US\$1,000, granted to a *balikbayan* may also be used by the *balikbayan* for his *kabuhayan* which will amount to US\$2,000, or US\$1,000 for the shopping privilege and US\$1,000 for the *Kabuhayan* Program.

And then we also put in the bill the definition of the livelihood tools, Mr. President. These are instruments used by hand or by machine and necessary to a person in the practice of his trade, vocation or profession, such as hand tools, power tools, precision tools, farm tools, tools for dressmaking, shoe repair,

beauty parlor and barber shop. And for purposes of this Act, a computer unit and its accessories shall be considered also as livelihood tools.

Kaya iyong garantiyang gagamitin o ginamit ng isang overseas Filipino worker o ng isang balikbayan iyong kaniyang privilege para sa *Kabuhayan* Program, aaminin po natin, ay walang nababanggit sa batas tungkol sa monitoring pagkatapos nilang bumili ng tools sa Duty Free Philippines under the *Kabuhayan* Program, Ginoong Pangulo.

Senator Pimentel. In any case, Mr. President, I understand that there is a worldwide discouragement of duty-free shopping in various countries of the world today primarily because of the philosophy that governs World Trade Organization members where subsidies for all kinds of items being sold inside the particular country are being discouraged. Probably, at the proper time, we will have to introduce some amendments in this regard.

Senator De Castro. Yes, Mr. President. We are open to amendments.

The President. The Majority Leader is recognized.

Senator Legarda Leviste. We thank the Minority Leader, Mr. President.

We are still in the period of interpellations. I ask that Sen. Robert S. Jaworski be recognized.

The President. Sen. Robert S. Jaworski is recognized.

Senator Jaworski. Thank you, Mr. President, and thank you, Madam Majority Leader.

Mr. President, may I be allowed to ask some questions of the distinguished senator from the Philippines.

Senator De Castro. It is an honor, Mr. President.

Senator Jaworski. This is in relation to what Senator Pimentel was talking about earlier. In our appreciation of the benefits to be extended to these *balikbayan*, have we ever also considered its relation to local producers?

Senator De Castro. Mr. President, during the committee hearing, we took note of the opposition of local retailers because of the expected losses in their business and tax from the government.

Senator Jaworski. *Kaya nga po.* How many percent are locally produced, more or less, *doon po ba sa* duty-free shop? Do we have a study on this subject?

SUSPENSION OF SESSION

Senator De Castro. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 5:29 p.m.

RESUMPTION OF SESSION

At 5:31 p.m., the session was resumed.

The President. The session is resumed. Senator De Castro is recognized.

Senator De Castro. Mr. President, according to Duty Free Philippines, the percentage of locally manufactured products is only one percent and mostly local foods.

Senator Jaworski. Mr. President, I ask this question because the wisdom of extending the opportunity to purchase livelihood tools is indeed very good. But if there is no local component that could be purchased, then I think \$1,000 is going to be too minimal.

Let me just tell the gentleman that I have just visited one duty-free outlet that has excellent livelihood tools made in the Philippines available. I am saying this so that hopefully, if the good senator would welcome it, I would propose that, to a certain degree, first, we could increase the privilege of spending at least the maximum of \$1,000 to \$2,000, most especially if the other thousand is going to be spent on locally produced or locally manufactured products that are available in the duty-free shops, particularly in relation to livelihood.

I have seen this, Mr. President, and they are excellent tools. They are already available. If we could just look into this subject matter, I think this will be beneficial not only to the local producers but to our *balikbayan*.

Senator De Castro. We are talking here also, Mr. President, of locally invented tools.

Senator Jaworski. That is included.

Senator De Castro. All right. Maganda pong suhestiyon iyan, Ginoong Pangulo. Siguro ay maidadagdag natin, during the period of amendments, iyong tungkol sa locally produced or locally invented tools na puwedeng pakinabangan ng ating mga baliwbayan, especially the overseas Filipino workers. If these tools are available locally, I think there is no reason for the

Duty Free Philippines not to buy these kinds of products dahil ang makikinabang sa mga produktong ito ay ang ating mga local producer.

Senator Jaworski. I wish to thank the gentleman, Mr. President.

On a relative subject, Mr. President. When one comes home from a long trip, first, he takes care of his wife and children, et cetera. Does the gentleman not think that we must at least maximize the opportunity for these *balikbayan* to truly come up with a more realistic, well-studied approach to their purchases considering that their money is hard-earned. Therefore, why do we not extend the period to a maximum of one month? I think this will be good.

Now, I want to buy something, and in three days or four days it is gone, so, I lose the opportunity to buy. Just imagine, if it were for livelihood. I think we have to try and figure out if we could extend it a little bit to a reasonable period, where an honest-to-goodness appreciation of what is before a *balikbayan*, since he is a returning Filipino who has to really set up things in the right perspective, otherwise he would lose a tool or an equipment because he just bought it out of spite.

Senator De Castro. That is correct, Mr. President. As a matter of fact, there was a proposal to extend the shopping period from the original 48 hours, under R.A. 6768, upon arrival, to seven days upon arrival,—and that is during regular season—and 15 days upon arrival during Christmas season.

So, during our hearing, the question was: “Won’t this extension be open to abuse?” Well, the extension of shopping period is based on the request of a *balikbayan* for convenience purposes, dahil nga sa jet lag, lalung-lalo na kung sa Middle East or Europe or US nanggaling ang isang *balikbayan*, and they want to spend a few day’s rest. Ang iba naman ay gustong magkaroon ng ample time, first, with their family and friends sa kanilang bayan o sa kanilang baranggay o probinsiya.

Tama po kayo, Ginoong Pangulo. Ang gusto ng isang Filipino family ay planuhin ang kanilang bibilhin. Not only that. The *balikbayan*, especially the overseas Filipino workers, hindi naman ito iyong mayayaman nating kababayan. Ito iyong pangkaraniwan nating mga kababayan. So, they want to plan it. For example, ano ang gagamitin nilang transportasyon? Dahil alam naman ninyong *balikbayan* iyan, ipinagmamalaki ng pamilya, maraming sasabit diyan kahit paano makarating lamang ng Maynila o ng duty-free shop. And then the budget. How much is the budget for the shopping privilege? Iyong mga binibiling consumable product like chocolate, biscuits, alak o sigarilyo para kay kumpare, although these are limited. Pero kailangang planuhin pa rin iyan. At kung maaaprubahan natin ang batas tungkol sa

kabuhayan program, lalong kailangan nilang magkaroon ng thorough preparation as to what kind of tool ang kanilang gagamitin sa papasukang negosyo, especially the overseas Filipino workers, na gusto nilang iwan sa kanilang pamilya just in case na hindi na sila babalik, o just in case na babalik pa sila, hindi naman sila mawawalan ng trabaho. Dahil karamihan po ng ating overseas Filipino workers ay may mga edad na pag bumalik. So, wala na silang chance to look for another job in another company.

Senator Jaworski. Salamat po, Ginoong Pangulo, the gentleman appreciates our contribution and hopefully, at the right time, *mai-incorporate natin ito ryan*.

And lastly, Mr. President, while this is a very simple subject matter, I am sure the gentleman has heard of so many stories about incidents of *balikbayan* either being robbed or their luggage being lost in transit particularly by dubious transport people.

So, would it not be possible, Mr. President, that we also make representations so that duly accredited transportation group be particularly assigned for *balikbayan* people coupled with all the necessary support so that their hard-earned money, their luggage will not be lost particularly from the airport to their destination because of characters who will be there just to pull a fast one.

Senator De Castro. Maybe we can formulate a bill, Mr. President, giving additional benefits to the *balikbayan*, especially our overseas Filipino workers. Pero ang alam ko po ang ating Department of Tourism ay nag-iisip na mag-provideng mga tourist bus for our tourists, including our *balikbayan*, that will shuttle from the international airport to a certain destination para maiwasan hindi lamang holdup kundi pati na rin iyong mga nahihirapang kumuha ng transportation kapag sila ay dumating na sa airport, if they do not have their own transportation.

Senator Jaworski. I guess, Mr. President, at the proper time, we can incorporate it in the *Balikbayan* bill that the distinguished senator is proposing. We could incorporate it in the proposed bill now specifying that the government agencies, particularly the Department of Tourism as the lead agency, and the Department of Transportation, et cetera, could work hand in hand to come up with an accredited transportation network for the benefit of the *balikbayan*. I think we can still do that.

Senator De Castro. At present, Mr. President, Duty Free Philippines has its own shuttle bus from the airport but only up to Duty Free Philippines. If that is the case, we can only guaranty the safety of their luggage from the airport up to Duty Free Philippines. *Kaya malapit lamang.*

Senator Jaworski. Mr. President, my concern is exactly from the airport to their homes because it has happened many times. I was just wondering.

Anyway, Mr. President, this is just a proposal that I hope the good senator could study and hopefully...

Senator De Castro. Yes, we can discuss that in the period of amendments, Mr. President.

Senator Jaworski. All right. Thank you, Mr. President.

Senator De Castro. That is a good suggestion. Thank you, Mr. President. I would like to thank the gentleman from the Philippines, Senator Jaworski.

The President. The Majority Leader is recognized.

Senator Legarda Leviste. I move that we suspend the....

The President. Are there other senators who reserved for the period of interpellations?

Senator Legarda Leviste. Mr. President, all the senators who reserved to interpellate on the amendments to the *Balikbayan* Program had already interpellated. I, therefore, move that we close the period of interpellations on Senate Bill No. 2101.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

SUSPENSION OF CONSIDERATION OF S. NO. 2101

Senator Legarda Leviste. I move that we suspend consideration of Senate Bill No. 2101.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

BILL ON SECOND READING S. No. 2116 — Special Purpose Asset Vehicles (SPAV) Act of 2002 (Continuation)

Senator Legarda Leviste. Mr. President, I move that we resume consideration of Senate Bill No. 2116 as reported out under Committee Report No. 41.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2116 is now in order.

Senator Legarda Leviste. Mr. President, I ask that the sponsor, Sen. Ralph G. Recto, be recognized.

The President. Sen. Ralph G. Recto is recognized.