

REPUBLIC ACT 7610
8TH CONGRESS OF THE PHILIPPINES

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AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD
ABUSE, EXPLOITATION AND DISCRIMINATION, AND FOR OTHER PURPOSES

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- FEBRUARY 4, 1992

FINAL TITLE

S. No. 1209

Final Action

Cons. in H. 6949,

R.A. No. 7610

AN ACT
PROVIDING FOR STRONGER DETERRENCE AND
SPECIAL PROTECTION AGAINST CHILD ABUSE
AND EXPLOITATION, PROVIDING LEGAL PRESUMPTIONS
AND PENALTIES FOR ITS VIOLATION.

Prepared by the Ctte. on Women and Family
Relations with Senators Lina, Jr., Mercado
and Rasuñ as authors.



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S.No. 1209

Prepared by the Committee on Women and Family Relations with Senators Lina, Jr., Mercado and Rasul as authors per Otte. Rpt. No. 667, recommending its approval in substitution of S. Nos. 487 and 727 on June 27, 1989;

Submitted said report to the Senate on July 25, 1989;

Sponsors: Senators Lina, Jr., Mercado and Rasul;

Assigned for consideration by Special Order on March 18, 1991;

Sponsorship speech by Senator Rasul on March 19, 1991;

Senator Tañada was made coauthor on motion of Senator Rasul on March 19, 1991;

Sponsorship speech by Senator Lina, Jr. on April 29, 1991;

There being no interpellations, the Body closed the period of interpellations on April 29, 1991;

Period of amendments on May 9, 23, 1991; July 25, 1991;

August 1, 1991; August 8, 1991;

Inquiry of Senator Laurel on August 8, 1991;

Certified as administration bill by the President of the Philippines on August 8, 1991;

Period of amendments on August 15, 1991; August 21, 1991;

Senator Shahani is both a cosponsor and coauthor as manifested by Senator Lina, Jr. on August 15, 1991;

Period of amendments on November 20, 1991;

Passed on second reading with amendments on November 20, 1991;

Printed copies were distributed to the Senators on November 25, 1991;

Passed on third reading on December 2, 1991;

In favor: (20) Angara, Aquino, Enrile, Estrada, Gonzales, Guingona, Jr., Herrera, Laurel, Lina, Jr., Maceda, Mercado, Osmeña, Paterno, Pimentel, Jr., Rasul, Romulo, Saguisag, Salonga, Tamano and Tañada;

Against: None;

Abstention: None;

Sent to the House of Representatives requesting concurrence on December 3, 1991;

Senate requested the House of Representatives for a conference on the disagreeing provisions of S. No. 1209 and H. B. Nos. 6946 and 29431 designating Senators Lina, Jr., Mercado, Rasul, Tañada and Enrile as its conferees on January 15, 1992;

House of Representatives agreed to the request of the Senate for a conference designating Congressmen Garcia, Zarraga, Tinga, Maskariño, and Serapio as its conferees on January 22, 1992;

House of Representatives designated Congresswoman Puyat-Reyes, Congressmen Lopez and Gascon additional members of the conference committee on the part of the House on January 23, 1992;

Senator Maceda was included additional member of the Conference Committee on the part of the Senate on motion of Senator Romulo on January 29, 1992;

Congressman Lacson and Congresswoman Acosta were designated additional members of the Conference Committee on the part of the House of Representatives on February 3, 1992;

Conference Committee recommended that the consolidation of S. 1209 and H. Nos. 6946 & 29431 be approved per attached copy;

Conference Committee report approved by the Senate on February 7, 1992;

Conference Committee report approved by the House of Representatives on February 7, 1992;

Consolidated in H. B. No. 6946 which was approved and signed by the President of the Philippines on June 17, 1992 and R.A. No. 7610.



March 19, 1991

Senator Guingona. Mr. President, Senator Rasul is here now. I ask that we consider Senate Bill No. 1209 on the Protection Against Child Abuse.

I ask that we recognize Senator Rasul to sponsor the bill.

**SPONSORSHIP SPEECH OF SENATOR RASUL
Senate Bill No. 1209 -Protection of Children
From All Forms of Abuse**

The Presiding Officer [Senator Maceda]. The gracious Lady from Sulu, Tawi-Tawi, and Riyadh is recognized.

Senator Rasul. Thank you, Mr. President.

Mr. President, the national and primordial issue that is of long standing concern is the continuing exploitation and abuses committed against children. Time and again, we hear children relate their own account of sexual abuse, physical and emotional maltreatment, physical neglect, and cruelty from the hands of strangers, relatives and even their own parents. Whatever may be the source of child abuse, experts agree that it is a growing problem which victimizes children who, with their young minds and fragile bodies, are helpless in defending themselves from abuses. Most of these children do not have the means to stop the abuse or even report their plight. Some of them remain forever victims of abuse from people who are supposed to protect them. It is certain that at this time, hundreds of children are being abused by their parents in one way or another. Some are "being tied to beds, beaten with hard objects, hung upside down, left alone, or worse, sexually molested right in their own homes." While it is not true that abused children are doomed from the time of their sad experience, psychologists, psychiatrists and sociologists say that generally, these children will suffer from some degree of emotional, psychological, and social instability in the long run.

But undoubtedly, the most disturbing, to say the least, is the persistent report of children being sexually exploited and molested for purely material gains. Children with ages ranging from three to 18 years are used and abused. We hear and read stories of rape, manhan-

dling and sexual molestation in the hands of cruel sexual perverts, local and foreigners alike. As of October 1990, records show that 50 cases of physical abuse were reported, with the ratio of six females to four males. Now, Mr. President, I ask: Is there a new life, a future for sexually abused children? Why do we have victims like them when Filipinos are known for their close family ties? How do we explain the increasing and alarming number of cases of child abuse?

There are still a lot of abuses and injustices done to our children who suffer not only from strangers but, sadly, also in the hands of their parents and relatives. We know for a fact that the present law on the matter, the Child and Welfare Code (PD No. 603) has very little to offer to abused children. We are aware of the numerous cases not reported in media.

In the Filipino family structure, a child is powerless; he or she is not supposed to be heard and seen. Usually, it is the father or the mother who has a say in family matters, and children, owing to limited capability, are not consulted in most families. Many children may be suffering from emotional, physical and social abuses in their homes, but they cannot come out in the open; besides, there is a very thin line separating discipline from abuse. This becomes wider when the abuse becomes graver and more severe.

Perhaps, more lamentable than the continuing child abuses and exploitation is the seeming unimportance or the lack of interest in the way we have dealt with the said problem in the country. No less than the Supreme Court, in the recent case of *People vs. Ritter*, held that we lack criminal laws which will adequately protect streetchildren from exploitation by pedophiles. But as we know, we, at the Senate have not been remiss in our bounden duty to sponsor bills which will ensure the protection of streetchildren from the tentacles of sexual exploitation. Mr. President, now is the time to convert these bills into reality.

In our long quest for solutions to problems regarding children, which problems are deeply rooted in poverty, I have felt this grave need to sponsor a bill, together with Senators Lina and Mercado, which would ensure the children's protection from all forms of abuse and exploitation, to provide stiffer sanction for their commission and

carry out programs for prevention and deterrence to aid crisis intervention in situations of child abuse and exploitation.

Senate Bill No. 1209 translates into reality the provision of our 1987 Constitution on "THE FAMILY," and I quote:

Sec. 3. The State shall defend:

x x x

(2) The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development.

This is a specific provision peculiar to the Philippines. No other Constitution in the whole world contains this mandate. Keeping true to this mandate, Mr. President, and the UN Convention on the Rights of the Child which has been drafted in the largest global summit, of which we have acceded, we should waste no time in passing this significant bill into law. This is a commitment; thus, we should not thrive on mere promises. We, the legislators of this country, must have that political will to transform this promise into a vibrant reality.

Children's normal growth and development, considering their young minds and fragile bodies, must not be stunted. We legislators must pave the way for the sustained progress of our children. Let not a child's opportunity for physical, spiritual, moral, social and intellectual well-being be stunted by the creeping cruelty and insanity that sometimes plague the minds of the adults in society who, ironically, are the persons most expected to be the guardians of their interest and welfare.

It is on this aspect that this present legislative measure focuses, by providing for stronger deterrence and special protection against child abuse and exploitation, providing legal presumptions and penalties for its violation.

As Chairperson of the Committee on Women and Family Relations, I hope that Senate Bill No. 1209, which is cosponsored by Senators Lina and Mercado, would be favorably considered by my Colleagues.

Thank you, Mr. President.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1209

Senator Guingona. Mr. President, considering that Senator Lina is not here, I move that we suspend consideration of this measure.

The Presiding Officer [Senator Maceda]. Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Guingona. Mr. President, I move that we consider Committee Report...

Senator Mercado. Mr. President.

The Presiding Officer [Senator Maceda]. The Gentleman from Quezon City is recognized.

PARLIAMENTARY INQUIRY
(Consideration of Similar Bills)

Senator Mercado. Mr. President, may I make a parliamentary inquiry?

I believe that our records show that there are other measures also related to child and youth welfare. I remember having filed Senate Bill Nos. 26 and 27 which are now incorporated in Joint Committee Report Nos. 176 and 276. These are measures related also to child welfare.

I was wondering whether these bills that were filed in 1987 would also be considered later. Just to show our resolve in improving the conditions especially of these children who are suffering from discrimination.

Senator Guingona. Certainly, Mr. President, and if we can find a way of consolidating them, if the Gentleman so wishes...

Senator Mercado. Actually, they are consolidated already in two separate committee reports.

Senator Guingona. Then, if we cannot consolidate them with this, we will certainly consider them separately after.

March 19, 1991

The President. The session is resumed.

Senate Bill No. 1209

The Majority Floor Leader.

(Prepared by the Committee)

CONFERENCE COMMITTEE ON SENATE BILL
NO. 1003/HOUSE BILL NO. 27532
(Income of Overseas Contract Workers)

Introduced by Senators Lina, Jr., Mercado and Rasul

AN ACT PROVIDING FOR STRONGER
DETERRENCE AND SPECIAL PROTECTION
AGAINST CHILD ABUSE AND
EXPLOITATION, PROVIDING LEGAL
PRESUMPTIONS AND PENALTIES FOR ITS
VIOLATION

Senator Guingona. Mr. President, I ask that Sena-
tors Herrera, Romulo, Gonzales, Pimentel, Guingona,
Paterno and Enrile constitute the Senate panel for the
Bicameral Conference Committee on Senate Bill No.
1003 and House Bill No. 27532, concerning the income
of overseas contract workers.

Be it enacted by the Senate and House of
Representatives of the Philippines in Congress
assembled:

The President. Is there any objection? [Silence]
Hearing none, the request is approved.

SECTION 1. This Act shall be known as the
"Special Protection of Children against Child Abuse
and Exploitation Act."

Senator Guingona. Concerning the Anti-Plunder
Act, we are verifying whether there has been a previous
composition, Mr. President. In due time, we will make
the manifestation.

SEC. 2. Declaration of Policy and Principles. - It
is hereby declared to be the policy of the State to
provide special protection to children from all forms
of abuse and exploitation, provide sanctions for their
commission and carry out a program for prevention
and deterrence of and crisis intervention in situations
of child abuse and exploitation. Further, the State
shall intervene on behalf of the child when the
parents, guardian or person having care or custody of
the child fail, or are unable to provide the child
protection against abuse and exploitation or when the
acts of abuse and exploitation against the child are
committed by the said parents, guardian, or person
having care and custody of the same.

BILL ON SECOND READING
Senate Bill No. 1209--Protection of Children
From All Forms of Abuse

Senator Guingona. Mr. President, I move that we
consider Committee Report No. 667 on Senate Bill No.
1209.

SEC. 3. Definitions of Terms:

The President. Consideration of Senate Bill No.
1209 is now in order. With the permission of the Body,
the Secretary will read only the title of the bill, without
prejudice to inserting in the Record the whole text
thereof.

The Secretary. Senate Bill No. 1209, entitled

AN ACT PROVIDING FOR STRONGER DETER-
RENT AND SPECIAL PROTECTION AGAINST
CHILD ABUSE, IMPOSING PENALTIES FOR ITS
VIOLATION.

1. Children who have the right to special
protection under this Act shall mean persons below
eighteen (18) years of age including those who are
eighteen (18) years of age or over but are unable to
fully take care of themselves or protect themselves
from neglect, abuse, cruelty or exploitation because
of a physical or mental disability or condition.

The following is the full text of the proposed Senate
Bill No. 1209:

2. Child Abuse is the maltreatment of the child
which includes physical abuse and cruelty, physical
neglect, sexual abuse and emotional maltreatment. It
includes any act which debases, degrades or demeans
the intrinsic worth and dignity of a child as a human
being.

SENATE

a) physical abuse - any act which results in a non-accidental physical injury.

b) cruelty - unreasonable infliction of physical injury or inhuman treatment on the physical being of the child.

c) physical neglect - negligent treatment of a child by parents, guardian or caretaker under circumstances indicating harm or threatened harm to the child's health and welfare.

Neglect in general means to disregard, leave undone or unattended, or give insufficient attention to the basic and development needs of a child so as to prevent or retard his normal physical, mental, emotional or moral development.

d) sexual abuse - acts of sexual assault or sexual exploitation of minors.

i) sexual assault includes rape, incest, sodomy, sexual sadism or masochism, bestiality, lewd or lascivious acts or any other form of masturbation or sexual perversion.

ii) sexual exploitation is the unjust or improper use of a child in sexual activities for profit or advantage.

e) emotional treatment - infliction of mental pain or injury through excessive verbal assaults or non-verbal harassing acts.

SEC. 4. Child Prostitution. - Minors, whether male or female, who for money or profit, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

1. Those who promote or facilitate prostitution;
2. Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution;
3. Those who derive profit or advantage therefrom, whether as manager or owner of the

establishment where the prostitution takes place or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment.

SEC. 5. Legal Presumptions. - The following persons are presumed to be engaged in the prostitution or sexual exploitation of minors:

1. Any person who, not being a relative of a minor is found alone under suspicious circumstances with the said minor inside the room or cubicle of an inn, hotel, motel, pension house, apartelle or other similar establishments.

2. Any person receiving services from a minor in a sauna parlor or bath, massage clinic, health club and other similar establishments.

SEC. 6. Sanctions for Establishments or Enterprises which Promote, Facilitate, or Conduct Activities Constituting Child Abuse and Exploitation.

- All establishments and enterprises which promote or facilitate child abuse or exploitation shall be immediately closed and their authority or license to operate shall be cancelled, without prejudice to the owner or manager thereof being prosecuted under this Act and/or the Revised Penal Code, as amended, or special laws.

An establishment shall be deemed to promote or facilitate child abuse or exploitation if the acts constituting child abuse or exploitation occur in the premises of said establishment under this Act or in violation of the Revised Penal Code, as amended. An enterprise such as a sauna, travel agency, or recruitment agency which promotes child abuse and exploitation as part of a tour for foreign tourists; exhibits children in a lewd or indecent show; provides child masseurs for adults of the opposite sex and said services includes any lascivious conduct with the customer; or solicitation of children for activities constituting abuse and exploitation shall be deemed to promote or facilitate child abuse and exploitation.

SEC. 7. Child Trafficking. - The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed upon any person who shall engage in trading and dealing with a child, including, but not limited to, the act or business of buying and selling of a child for

money, or for any other consideration, or barter.

SEC. 8. *Presumption of Violation.* - There is a disputable presumption of violation of Section 7 of this Act when a child travels alone to a foreign country, or even when accompanied by his parents, guardian or any other person; without valid, necessary or reasonable reasons allowed by law and without clearance issued by the Department of Social Welfare and Development in consonance with the rules and regulations to be promulgated by it.

SEC. 9. *Obscene Publication and Indecent Shows.* - The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, pose or model in obscene publications or pornographic materials or to sell or distribute the said materials.

If the child used as a performer, subject or seller/distributor is below twelve (12) years of age, or when a parent or guardian permits a child under his or her authority to engage in such activity, the penalty shall be imposed in its maximum period.

SEC. 10. *Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development.* - Any person who shall commit any other act of neglect, cruelty or exploitation or shall be responsible for conditions prejudicial to the development of a child, not expressly falling under any article of the Revised Penal Code, as amended, the provisions of the Child and Youth Welfare Code, as amended, or the provisions of this Act, shall be punished by *prision mayor* in its minimum period.

SEC. 11. *Additional Penalties.* - If the offender is a foreigner, the latter shall be deported after service of the sentence and forever banned from entry to the country. If the offender is a government official or employee, the additional penalty of disqualification to hold public office shall likewise be imposed. A fine to be determined by the Courts shall be imposed to be applied towards the rehabilitation of each child victim under the supervision of the Department of Social Welfare and Development. Offenders of this Act shall not be entitled to the benefit of the Probation Law. The laws on youthful offenders shall apply to child-offenders of this Act.

SEC. 12. *Victims - Filing of complaints for Child Abuse and Exploitation Cases.* - A child offended party shall be immediately placed under the protective custody of the Department of Social Welfare and Development pursuant to Executive Order No. 56. The child offender shall be proceeded against in accordance with existing laws for youth offenders and in appropriate case receive care and assistance.

Complaints on cases for prosecution of child abuse and exploitation may be filed by the:

1. Offended party, when said offended party is over fifteen (15) years of age and below the age of majority;
2. Parents or guardian, unless said parents or guardian are themselves the perpetrators of the child abuse or exploitation;
3. Ascendent or collateral relative within the third degree of consanguinity, unless said ascendent or collateral relative is the perpetrator of the child abuse or exploitation;
4. Officer, social worker, or representative of a licensed child-caring institution;
5. Official or social worker of the Department of Social Welfare and Development; or
6. Barangay chairman or a concerned, responsible citizen of the barangay where the child resides in or where the act of abuse or exploitation occurred.

The cases may be filed by the persons herein enumerated regardless of whether the acts complained of are based on violation of the Revised Penal Code, as amended, the Child and Youth Welfare Code, as amended, or the provisions of this Act.

SEC. 13. *National Advisory Board; Non-governmental Agencies.* - The Government shall support and provide assistance to programs of non-governmental agencies to prevent, deter, or provide crisis intervention and other services related to child abuse and exploitation.

There is hereby created a National Advisory

Board on Child Abuse and Exploitation to advise the Department of Social Welfare and Development in the implementation of this Act. The members of the National Advisory Board are:

1. A representative of the Secretary of the Department of Justice;
2. President of the Council of Welfare Agencies of the Philippines;
3. President of the Child Welfare League of the Philippines;
4. A representative of the Secretary of the Department of Social Welfare and Development; and
5. Two (2) representatives of the private sector to represent parents and citizens concerned about child abuse and exploitation appointed by the Secretary of the Department of Social Welfare and Development. The representative of the private sector shall serve for two (2) years.

The Advisory Board shall annually elect a Chairman from among their members and shall be entitled to such per diem and allowances as the Secretary of Social Welfare and Development may determine. The Board shall meet twice a month or as often as the Secretary may direct.

The Secretary of Social Welfare and Development shall designate the Council for the Welfare of Children as Secretariat to assist in the implementation of this Act and the operations of the Board.

SEC. 14. Rules and Regulations. - The Secretariat shall promulgate rules and regulations to implement this Act, with the advice and recommendations of the National Advisory Board.

SEC. 15. Appropriations. - In order to implement this Act, there is hereby authorized to be appropriated the amount of One hundred thousand pesos (P100,000.00) for the initial year of operations. Thereafter, such amounts as may be required to implement this Act and for the operations of the Board are hereby authorized to be included in the general appropriations of the Department of Social Welfare and Development.

SEC. 16. Separability Clause. - If any provision of this Act is held invalid, other provisions not affected thereby shall continue in full force and effect.

SEC. 17. Repealing Clause. - Any law, decree or rule inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 18. Effectivity Clause. - This Act shall take effect immediately after its complete publication in the *Official Gazette*.

Senator Guingona. I ask that we recognize Senator Rasul to sponsor the measure. Senator Rasul is just across, Mr. President. The page has already called her.

SUSPENSION OF THE SESSION

The President. Let us suspend the session for a few minutes, if there is no objection. [*There was none.*]

It was 6:21 p.m.

RESUMPTION OF THE SESSION

At 6:25 p.m., the session was resumed with Senator Maceda presiding.

The Presiding Officer [Senator Maceda]. The session is resumed.

CONFERENCE COMMITTEE REPORT ON SENATE BILL NO.88/HOUSE BILL NO. 12261 Citizen Armed Force of the Armed Forces

Senator Guingona. Mr. President, while waiting for Senator Rasul, I move that we consider Conference Committee Report on the disagreeing provisions of House Bill No. 12261 and Senate Bill No. 88.

Mr. President, there were two main disagreeing provisions which have been compromised and agreed upon:

First is the creation of a separate Command. The compromise, is that the House agreed to the Senate version, provided that the Chief of Staff shall create an AFP Reserve Command within one year from the date of the

House Bill No. 29399, entitled

AN ACT CHANGING THE NAME OF THE TANUAN SCHOOL OF CRAFTSMANSHIP AND HOME INDUSTRIES IN TANUAN, LEYTE, TO LEYTE NATIONAL COLLEGE OF ARTS AND TRADES.

The Presiding Officer [Senator Tafiada]. Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Guingona. Committee Report No. 1290 on House Bill No. 29297, entitled

AN ACT CHANGING THE NAME OF THE DANIEL Z. ROMUALDEZ MEMORIAL SCHOOL OF FISHERIES IN TOLOSA, LEYTE, TO LEYTE NATIONAL COLLEGE OF FISHERIES.

The Presiding Officer [Senator Tafiada]. Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Guingona. Committee Report No. 1292 on House Bill No. 29235, entitled

AN ACT CHANGING THE NAME OF THE ALANGALANG AGRO-INDUSTRIAL SCHOOL IN ALANGALANG, LEYTE TO LEYTE NATIONAL COLLEGE OF AGRICULTURE.

The Presiding Officer [Senator Tafiada]. Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Guingona. Finally, Committee Report No. 1294 on Senate Bill No. 901, entitled

AN ACT PROVIDING FOR THE PRIVATIZATION OF MINI-HYDRO ELECTRIC POWER AND DEVELOPMENT IN THE PHILIPPINES.

The Presiding Officer [Senator Tafiada]. Is there any objection? [Silence] Hearing none, the motion is approved.

BILL ON SECOND READING

Senate Bill No. 1209 - Protection Against Child Abuse

Senator Guingona. Mr. President, I move that we consider Senate Bill 1209 as reported out under Committee Report No. 667.

The Presiding Officer [Senator Tafiada]. Consideration of Senate Bill No. 1209 is now in order. With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting on the Record the whole text thereof.

The Secretary. Senate Bill No. 1209, entitled

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE AND EXPLOITATION, PROVIDING LEGAL PRESUMPTIONS AND PENALTIES FOR ITS VIOLATION.

The following is the full text of the proposed Senate Bill No. 1209:

SENATE BILL NO. 1209

Introduced by Senators Lina, Jr., Mercado and Rasul per Committee Report No. 667

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE AND EXPLOITATION, PROVIDING LEGAL PRESUMPTIONS AND PENALTIES FOR ITS VIOLATION.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. This Act shall be known as the "Special Protection of Children against Child Abuse and Exploitation Act."

SEC. 2. Declaration of Policy and Principles. - It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse and exploitation, provide sanctions for their commission and carry out a program for prevention

and deterrence of and crisis intervention in situations of child abuse and exploitation. Further, the State shall intervene on behalf of the child when the parents, guardian or person having care or custody of the child fail, or are unable to provide the child protection against abuse and exploitation or when the acts of abuse and exploitation against the child are committed by the said parents, guardian, or person having care and custody of the same.

SEC. 3. Definition of Terms:

1. *Children* who have the right to special protection under this Act shall mean persons below eighteen (18) years of age including those who are eighteen (18) years of age or over but are unable to fully take care of themselves or protect themselves from neglect, abuse, cruelty or exploitation because of a physical or mental disability or condition.

2. *Child Abuse* is the maltreatment of the child which includes physical abuse and cruelty, physical neglect, sexual abuse, and emotional maltreatment. It includes any act which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.

a) physical abuse - any act which results in a non-accidental physical injury.

b) cruelty - unreasonable infliction of physical injury or inhuman treatment on the physical being of the child.

c) physical neglect - negligent treatment of a child by parents, guardian or caretaker under circumstances indicating harm or threatened harm to the child's health and welfare.

Neglect in general means to disregard, leave undone or unattended, or give insufficient attention to the basic and development needs of a child so as to prevent or retard his normal physical, mental, emotional or moral development.

d) sexual abuse - acts of sexual assault or sexual exploitation of minors.

i) sexual assault includes rape, incest, sodomy, sexual sadism or masochism, bestiality, lewd or lascivious acts or any other form of masturbation or sexual perversion.

ii) sexual exploitation is the unjust or improper use of a child in sexual activities for profit or advantage.

e) emotional treatment - infliction of mental pain or injury through excessive verbal assaults or non-verbal harassing acts.

SEC. 4. Child Prostitution. - Minors, whether male or female, who for money or profit, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution.

The penalty of *reclusion temporal* in its medium period to *reclusion perpetua* shall be imposed upon the following:

1. Those who promote or facilitate prostitution;

2. Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution;

3. Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the prostitution takes place or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment.

SEC. 5. Legal Presumptions. - The following persons are presumed to be engaged in the prostitution or sexual exploitation of minors:

1. Any person who, not being a relative or a minor, is found alone under suspicious circumstances with the said minor inside the room or cubicle of an inn, hotel, motel, pension house, apartelle or other similar establishments.

2. Any person receiving services from a minor in a sauna parlor or bath, massage clinic, health club and other similar establishments.

SEC. 6. Sanctions for Establishments or Enterprises which Promote, Facilitate, or Conduct Activities Constituting Child Abuse and Exploitation. - All establishments and enterprises which promote or facilitate child abuse or exploitation shall be immediately closed and their authority or license to operate shall be canceled, without prejudice to the

owner or manager thereof being prosecuted under this Act and/or the Revised Penal Code, as amended, or special laws.

An establishment shall be deemed to promote or facilitate child abuse or exploitation if the acts constituting child abuse or exploitation occur in the premises of said establishment under this Act or in violation of the Revised Penal Code, as amended. An enterprise such as a sauna, travel agency, or recruitment agency which promotes child abuse and exploitation as part of a tour for foreign tourists; exhibits children in a lewd or indecent show; provides child masseurs for adults of the opposite sex and said services includes any lascivious conduct with the customer; or solicitation of children for activities constituting abuse and exploitation shall be deemed to promote or facilitate child abuse and exploitation.

SEC. 7. Child Trafficking. - The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed upon any person who shall engage in trading and dealing with a child, including, but not limited to, the act or business of buying and selling of a child for money, or for any other consideration, or barter.

SEC. 8. Presumption of Violation. - There is a disputable presumption of violation of Section 7 of this Act when a child travels alone to a foreign country, or even when accompanied by his parents, guardian or any other person; without valid, necessary or reasonable reasons allowed by law and without clearance issued by the Department of Social Welfare and Development in consonance with the rules and regulations to be promulgated by it.

SEC. 9. Obscene Publication and Indecent Shows. - The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, pose or model in obscene publications or pornographic materials or to sell or distribute the said materials.

If the child used as a performer, subject or seller/distributor is below twelve (12) years of age, or when a parent or guardian permits a child under his or her authority to engage in such activity, the penalty shall be imposed in its maximum period.

SEC. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. - Any person who shall commit any other act of neglect, cruelty or exploitation or shall be responsible for conditions prejudicial to the development of a child, not expressly falling under any article of the Revised Penal Code, as amended, the provisions of the Child and Youth Welfare Code, as amended, or the provisions of this Act, shall be punished by *prision mayor* in its minimum period.

SEC. 11. Additional Penalties. - If the offender is a foreigner, the latter shall be deported after service of the sentence and forever banned from entry to the country. If the offender is a government official or employee, the additional penalty of disqualification to hold public office shall likewise be imposed. A fine to be determined by the Courts shall be imposed to be applied towards the rehabilitation of each child victim under the supervision of the Department of Social Welfare and Development. Offenders of this Act shall not be entitled to the benefit of the Probation Law. The laws on youthful offenders shall apply to child-offenders of this Act.

SEC. 12. Victims - Filing of complaints for Child Abuse and Exploitation Cases. - A child offended party shall be immediately placed under the protective custody of the Department of Social Welfare and Development pursuant to Executive Order No. 56. The child offender shall be proceeded against in accordance with existing law for youth offenders and in appropriate case receive care and assistance.

Complaints on cases for prosecution of child abuse and exploitation may be filed by the:

1. Offended party, when said offended party is over fifteen (15) years of age and below the age of majority;
2. Parents or guardian, unless said parents or guardian are themselves the perpetrators of the child abuse or exploitation;
3. Ascendent or collateral relative within the third degree of consanguinity, unless said ascendant or collateral relative is the perpetrator of the child abuse or exploitation;

4. Officer, social worker, or representative of a licensed child-caring institution;

5. Official or social worker of the Department of Social Welfare and Development; or

6. Barangay chairman or a concerned, responsible citizen of the barangay where the child resides in or where the act of abuse or exploitation occurred.

The cases may be filed by the persons herein enumerated regardless of whether the acts complained of are based on violation of the Revised Penal Code, as amended, the Child and Youth Welfare Code, as amended, or the provisions of this Act.

SEC. 13. National Advisory Board; Non-governmental Agencies. - The Government shall support and provide assistance to programs of non-governmental agencies to prevent, deter, or provide crisis intervention and other services related to child abuse and exploitation.

There is hereby created a National Advisory Board on Child Abuse and Exploitation to advise the Department of Social Welfare and Development in the implementation of this Act. The members of the National Advisory Board are:

1. A representative of the Secretary of the Department of Justice;

2. President of the Council of Welfare Agencies of the Philippines;

3. President of the Child Welfare League of the Philippines;

4. A representative of the Secretary of the Department of Social Welfare and Development; and

5. Two (2) representatives of the private sector to represent parents and citizens concerned about child abuse and exploitation appointed by the Secretary of the Department of Social Welfare and Development. The representatives of the private sector shall serve for two (2) years.

The Advisory Board shall annually elect a Chairman from among their members and shall be

entitled to such per diem and allowances as the Secretary of Social Welfare and Development may determine. The Board shall meet twice a month or as often as the Secretary may direct.

The Secretary of Social Welfare and Development shall designate the Council for the Welfare of Children as Secretariat to assist in the implementation of this Act and the operations of the Board.

SEC. 14. Rules and Regulations. - The Secretariat shall promulgate rules and regulations to implement this Act, with the advice and recommendations of the National Advisory Board.

SEC. 15. Appropriations. - In order to implement this Act, there is hereby authorized to be appropriated the amount of One hundred thousand pesos (P100,000.00) for the initial year of operations. Thereafter, such amounts as may be required to implement this Act and for the operations of the Board are hereby authorized to be included in the general appropriations of the Department of Social Welfare and Development.

SEC. 16. Separability Clause. - If any provision of this Act is held invalid, other provisions not affected thereby shall continue in full force and effect.

SEC. 17. Repealing Clause. - Any law, decree or rule inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 18. Effectivity Clause. - This Act shall take effect immediately after its complete publication in the *Official Gazette*.

Senator Guingona. Mr. President, I ask that we recognize Senate Lina.

The Presiding Officer [Senator Tañada]. Senator Lina is recognized.

SPONSORSHIP BY SENATOR LINA
(Towards a National Program for Protection of
Children Against Abuse)

Senator Lina. Thank you very much, Mr. President.

This bill before us is another milestone towards our efforts for a national comprehensive program for the survival and development of Filipino children. It responds to the Constitutional mandate for our government to provide special protection for children against all forms of abuse, cruelty and other conditions prejudicial to their development. (Art. XV, Sec. 3(2)).

Mr. President, two measures which the Senate has already approved constitute major parts for a national program for protection of children. Republic Act No. 6972, which was approved November 23, 1990, establishes a barangay-level program for the total development and protection of children up to six years of age. Said program provides the foundation for a network of barangay-level crisis intervention and sanctuaries for endangered children and those who need to be rescued from an unbearable home situation. Senate Bill No. 155, the Local Government Code, which is at present being consolidated with the House version, provides that it is the duty of every barangay, as soon as feasible, to set up such a center to serve children up to six years of age.

A national program for protection of children, however, needs not only the institutional protective mechanisms, but also a mechanism for strong deterrence against commission of abuse and exploitation. This measure which we are considering today responds to that urgent need.

Senate Bill No. 1209, Mr. President, is intended to provide stiffer penalties for abuse of children and to facilitate prosecution of perpetrators of abuse. It is intended to complement provisions of the Revised Penal Code where the crimes committed are those which lead children to prostitution and sexual abuse, trafficking in children and use of the young in pornographic activities.

These are the three areas of concern which are specifically included in the United Nations Convention of the Rights of the Child. As a signatory to this Convention, to which the Senate concurred in 1990, our country is required to pass measures which protect the child against these forms of abuse.

The urgency for the passage of a law which deters abuse is manifest in the reported cases of abuse.

Child Abuse Situation

Let me cite to the Senate President, my dear Colleagues, the child abuse situation.

There are an estimated 30 million children who are below the age of 18 years. About 17 million of said 30 million children are below the age of ten years. While there are no reliable statistics of the incidence of abuse in our country, other nations place the incidence of abuse of, at least, one percent of the child population as a very conservative estimate. If we were to use this conservative estimate, this means that we are talking about 300,000 children below the age of 18 and 170,000 children below the age of ten. Such a big number, Mr. President.

Specialists agree that reported cases of abuse and convictions of child abusers for rape, abduction, murder, homicide and parricide, and physical injuries constitute only the proverbial tip of the iceberg. Incestuous abuse and severe punishment by parents are not even reported.

A paper presented recently on sexual abuse, using data from medical journals of cases in other countries, posit that, at least, six out of ten cases of sexual abuse are committed by ascendants, descendants and collateral relatives, usually those living in the same house. Another two cases are by those with access to the children and are often trusted by the family, including domestics and neighbors. Only two or even less are perpetrated by strangers or persons the child does not know.

Mr. President, trafficking in children is difficult to prosecute, particularly when the parent or guardian cooperate in the traffic of the young. These cases cover illegal adoptions and allowing the children to travel in the company of pedophiles or to permit pornography. Abuse in permitting children to appear in lewd shows, even private parties are usually with the consent of the parent or guardian.

Mr. President, child neglect and abuse can be institutionalized in a society. For a country such as ours, where a reported 49.5 percent of all families, or about 5 million, are at or below the poverty line or threshold, millions of children do not enjoy the basic necessities of life. Not from lack of love of the parents, but from actual inability to provide the same.

Literacy and preparation for livelihood through education is a right of all children. When the educational system is plagued by deteriorating quality of education, lack of schoolrooms and qualified teachers, and limited access due to high tuition fees, abuse which results in illiteracy and lack of preparation for a productive life is a form of institutionalized neglect.

Our preschoolers, according to statistics of our schools and agencies, are malnourished. Seventeen out of 100 preschoolers are in need of proper nutrition. Since malnutrition results in stunted growth and mental retardation, this situation alone is a form of abuse that many children suffer.

While these problems of institutionalized abuse are not addressed by Senate Bill No. 1209, it is important, Mr. President, to bear in mind that we must keep the national program of child protection always in focus.

Senate Bill No. 1209 directs its attention to individual or group abuse. Recent reported cases attest to the urgency of legislative remedies.

G. Pangulo at mga Kasamahan sa Senado, nais kong banggitin ang ibang mga piling kaso nitong mga nakaraang araw tungkol sa mga balitang pang-aabuso sa ating mga kabataan at bata.

Recent Cases of Reported Abuse. In the last two months alone, there have been several reports on individual and group abuse and exploitation.

1. A baby girl, 18 months old, was found positive for a sexually transmitted disease, allegedly from a serviceman who sleeps with the mother of the baby girl. This was reported in Olongapo. (*Inquirer*, 3-4-91)

2. A father received payment from a 78-year old pedophile for allowing said pedophile to take pictures of the father raping his own ten-year old daughter and who took pictures of the pedophile raping the ten-year old daughter. (*Ngayon*, 3-14-91)

3. An American and his Filipino wife "adopted" three minors, and raped all three of them with the help and connivance of the wife. The adopted children are now ages 11, 14 and 19. (*Malaya*, 2-17-91)

4. A streetchild recounts that her stepfather raped her from the age of seven. She ran away, but is now a prostitute plying her trade in the streets. She was also raped by a stranger. (*Inquirer* 3-11-91)

5. A set of cases have been reported of minors being rescued from a dance studio, a recruitment agency for domestics, a sauna and massage parlor, and from prostitution dens.

Mr. President, a paper on streetchildren released recently reports that there are about 3,000 child prostitutes of both sexes who can be seen in the streets of Ermita, Makati, Pasay, Caloocan, and the shopping districts of Quezon City and Manila.

Outside of Metro Manila, places identified to have reported cases of possible child exploitation are Puerto Galera in Mindoro, Poro Point in La Union, Pagsanjan, Laguna, Baguio, Boracay, Angeles, Bacolod, and Olongapo.

The social workers identified streetchildren as coming from isolated barangays of Leyte, Samar, the Bicol provinces, and Masbate.

Estimates reported on the number of streetchildren who are high-risk cases of actual and potential child abuse range from 50,000 to 70,000 in the Metro Manila area. Estimates of streetchildren in Olongapo range from 1,000 to 3,000. Streetchildren are becoming visible in other urban areas such as Cebu, Bacolod, Iloilo, Davao, Baguio, and Zamboanga.

Mr. President, abuse is not only visible among the poor. Recently, it was reported that a ten-year old boy from an affluent family suffered maltreatment from his parents. Another mother beat up her daughter who is attending primary school and was reported by the teacher. The mother was angry and frustrated because her common-law partner would not marry her and vented her anger on the poor young child. A father beat his daughter to death because she failed in school. A businessman brutalized his children and is now facing loss of custody and criminal charges. A child abuse feature reported the case of a girl whose eyes were gouged out by a crazed mother.

A common element in these cases of reported abuse is that the cause of the abuse is not the child nor the behavior of the child, but the moral values and emotional problems of the abuser-parent.

Ironically, recruiter-abusers present themselves as wanting to help the family by offering to provide employment for the children.

A National Program for Protection of Children

Mr. President, this bill on providing higher penalties for abusers and exploiters, setting up legal presumptions to facilitate prosecution of perpetrators of abuse, and complementing the existing penal provisions of crimes which involve children below 18 years of age is a part of a national program for protection of children.

Children face many hazards and obstacles to life and realization of their fullest potential for achievement and excellence.

There are many dangers over which the children have no control. Among these are war, insurgency, natural calamities, underdevelopment of the country, poverty of the family, economic deprivation of the community itself, and the status of the delivery of basic services by the Nation to its needy children.

In the home, the children may find themselves in the center of marital discord between parents; or neglect not due to lack of love but because their parents are too busy making a living to pay enough attention to a child's needs. Then there are the inevitable sorrows that are part of life which they cannot comprehend. Among these are being orphaned due to accident while still very young, disappointments in the attainment of goals, betrayal by a loved one or a friend, and others, even assuming that the child receives the normal love and care a stable family gives to its children.

To these dangers and hazards to the life of children, must we add deliberate and cruel abuse and exploitation?

Mr. President, subject to perfecting amendments, I am hopeful that the Senate will approve this bill and thereby add to the growing program for special protection of children and youth. We need this measure to deter

abuse. We need a law to prevent exploitation. We need a framework for the effective and swift administration of justice for the violation of the rights of children.

Thank you very much, Mr. President.

The Presiding Officer [Senator Tañada]. The Majority Floor Leader.

Senator Guingona. Mr. President, if there are no interpellations, I move that we close the period of interpellations.

The Presiding Officer [Senator Tañada]. Is there any objection? [*Silence*] Hearing none, the motion is approved.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1209

Senator Guingona. Mr. President, I move that we suspend consideration of this measure.

The Presiding Officer [Senator Tañada]. Is there any objection? [*Silence*] Hearing none, the motion is approved.

BILL ON SECOND READING
Senate Bill No. 1765--Dangerous Drugs
(Continuation)

Senator Guingona. Mr. President, I move that we consider Senate Bill No. 1765 as reported out under Committee Report No. 1265.

The Presiding Officer [Senator Tañada]. Resumption of consideration of Senate Bill No. 1765 is now in order.

Senator Guingona. We are in the period of interpellations. I ask that we recognize Senator Lina.

The Presiding Officer [Senator Tañada]. Senator Lina has the Floor.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1765

Senator Guingona. Mr. President, if there are no

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LEAST OF THE STOCK OR PAID-UP CAPITAL OF WHICH BELONGS TO CITIZENS OF THE PHILIPPINES.

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Osmeña. (2) THE APPLICANT MUST PROVE THAT THE OPERATION OF THE PROPOSED MINI-HYDROELECTRIC PROJECT AND THE AUTHORIZATION TO DO BUSINESS WILL PROMOTE THE PUBLIC INTEREST IN A PROPER AND SUITABLE MANNER; AND--

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Osmeña. (3) THE APPLICANT MUST BE FINANCIALLY CAPABLE OF UNDERTAKING THE PROPOSED MINI-HYDROELECTRIC PROJECT AND MEETING THE RESPONSIBILITIES INCIDENT TO ITS OPERATION.

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Osmeña. That is all, Mr. President. May I request that we now close the period of amendments.

Senator Pimentel. Mr. President.

The Presiding Officer [Senator Mercado]. Senator Pimentel is recognized.

Senator Pimentel. Mr. President, sometime last week or at the last session when this matter was discussed, there was a proposal, if I am not mistaken, by Senator Romulo. He mentioned to me that, perhaps, it is better that instead of confining the subject matter of this bill to hydroelectric, perhaps, it would be better to reword it in such a way that it should refer to all power-generating activities. What does the Gentleman think of that?

Senator Osmeña. Mr. President, that proposal was made. I suggested that we introduce another bill because

this particular bill is specifically tailored for small run-of-the-river hydroelectric project.

Senator Pimentel. At any rate, has that issue been brought to the attention of the Gentleman already?

Senator Osmeña. Yes, Mr. President.

Senator Pimentel. Thank you.

The Presiding Officer [Senator Mercado]. There is a motion to close the period of amendments. Are there any objections? [Silence] Hearing none, the motion is approved.

APPROVAL OF SENATE BILL NO. 901 ON SECOND READING

Senator Guingona. Mr. President, I move that we vote on Senate Bill No. 901 on Second Reading.

The Presiding Officer [Senator Mercado]. We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill will please say Aye. [Several Senators: Aye] As many as are against will please say Nay. [Silence] The Ayes have it. The bill is approved, as amended, on Second Reading.

Senator Osmeña. Thank you, Mr. President.

BILL ON SECOND READING

Senate Bill No. 1209 - Protection Against Child Abuse (Continuation)

Senator Guingona. Mr. President, I move that we resume consideration of Senate Bill No. 1209 as reported out under Committee Report No. 667.

The Presiding Officer [Senator Mercado]. Resumption of consideration of Senate Bill No. 1209 is now in order.

Senator Guingona. Mr. President, we are still in the period of Committee amendments. I ask that we recognize Senator Lina.

The Presiding Officer [Senator Mercado]. Senator Lina is recognized.

Senator Lina. Thank you, Mr. President.

The following are the Committee amendments, Mr. President. I request that these Committee amendments be approved and, after that, a clean copy be prepared so that we can have a clean copy before the period of individual amendments.

May I proceed, Mr. President.

The Presiding Officer [Senator Mercado]. Please proceed.

COMMITTEE AMENDMENTS

Senator Lina. On page 3, line 10, insert the word "CHILD" between "facilitate" and "prostitution".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On page 3, between lines 12 and 13, insert the following: PROVIDED THAT WHEN THE VICTIM IS TWELVE (12) YEARS OR LESS, THE PERPETRATORS SHALL BE PROSECUTED UNDER ARTICLE 335, PARAGRAPH 3, AND ARTICLE 336 OF REPUBLIC ACT 3815, AS AMENDED, THE REVISED PENAL CODE, FOR RAPE OR LASCIVIOUS CONDUCT AS THE CASE MAY BE."

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On page 3, line 20, insert after Section 5 the phrase, ATTEMPT TO COMMIT CHILD PROSTITUTION.

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On line 20, delete the words "legal presumptions" and, in lieu thereof, insert THERE IS AN ATTEMPT TO COMMIT CHILD PROSTITUTION.

The Presiding Officer [Senator Mercado]. Is there

any objection? [Silence] Hearing none, the amendment is approved.

Senator Pimentel. Mr. President.

The Presiding Officer [Senator Mercado]. Senator Pimentel is recognized.

Senator Pimentel. Mr. President, may I just inquire from the Gentleman what is meant by "child prostitution"? As I understand it, under the Revised Penal Code, a sexual intercourse with a girl below twelve years old, if I am not mistaken, would constitute rape, not child prostitution.

So, perhaps, this thing should be clarified before we vote on it.

Senator Lina. Yes, Mr. President. That is clarified and there is a definition of "child prostitution" in Section 4 of the bill. The definition is as follows: "Minors, whether male or female, who, for money or profit, indulge in sexual intercourse or lascivious conduct are deemed children exploited in prostitution."

I understand the concern of the Gentleman. When an older person has sexual intercourse with a child below twelve years of age, that is considered as statutory rape.

Senator Pimentel. And yet, and there is true only of girls who are victims. But, in this particular case, apparently the definition would include male or female victims.

Senator Lina. Yes, Mr. President, and there is a different penalty. When a clean copy is prepared after the Committee amendments have been introduced, maybe we can appreciate better the totality of the bill.

Senator Pimentel. At any rate, Mr. President, before a clean copy is finally made available, perhaps, the distinguished Gentleman can tell us already what will be the effect of this particular amendment on the rape provisions of the Revised Penal Code. Would it mean that the rape of a female child below 12 years old, whether or not there is force, but there is no profit motive constitutes rape? In other words, what I am trying to say is, are we limiting the scope of the crime of rape of a child below 12 years

old in that particular instance?

Senator Lina. No, Mr. President, as stated in the Committee amendment which has just been approved but which, of course, can still stand some individual amendments during the period of individual amendment, it is stated that, "PROVIDED, THAT WHEN THE VICTIM IS TWELVE (12) YEARS OR LESS, THE PERPETRATOR SHALL BE PROSECUTED UNDER ARTICLE 335, PAR. 3, AND ARTICLE 336 OF R.A. 3815, AS AMENDED."

Article 335 of the Revised Penal Code, Mr. President, is, precisely, entitled: "When And How Rape Is Committed." So, prosecution will still be under Article 335, when the victim is 12 years old or below.

Senator Pimentel. Despite the presence of monetary considerations?

Senator Lina. Yes, Mr. President. It will still be rape. We will follow the concept as it has been observed under the Revised Penal Code. Regardless of monetary consideration, regardless of consent, the perpetrator will still be charged with statutory rape.

Senator Pimentel. So, it is only when the victim or the child who was abused is a male that the offender would probably be prosecuted under the distinguished Gentleman's amendment because, obviously, the crime of rape does not cover child abuse of males.

Senator Lina. Yes, that will be the effect, Mr. President.

Senator Pimentel. Thank you, Mr. President.

Senator Lina. We are now on page 3, line 20, Mr. President. Delete the words "Legal Presumptions" and, in lieu thereof, insert the words THERE IS AN ATTEMPT TO COMMIT CHILD PROSTITUTION.

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On lines 21 and 22, delete the words "The following persons are presumed to be engaged in

the prostitution or sexual exploitation of minors" and, in lieu thereof, insert the words, UNDER PARAGRAPH 1 OF SECTION 4 HEREOF WHEN and then delete "number one (1)" on line 23.

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On line 24, page 3, delete the phrase "under suspicious circumstances."

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On line 26, insert before the period the following: UNDER CIRCUMSTANCES WHICH WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT THE MINOR IS ABOUT TO BE SEXUALLY EXPLOITED.

The Presiding Officer [Senator Mercado]. That will be after the removal of the period, after the word "establishments".

Senator Lina. Yes, Mr. President.

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Pimentel. Mr. President.

The Presiding Officer [Senator Mercado]. Senator Pimentel.

Senator Pimentel. Just this question, Mr. President, if the Gentleman will allow.

Will this amendment also affect the Revised Penal Code provisions on seduction?

Senator Lina. No, Mr. President. Article 336 of Act No. 3815 will remain unaffected by this amendment we are introducing here. As a background, the difficulty in the prosecution of so-called "pedophiles" can be traced to this problem of having to catch the malefactor

committing the sexual act on the victim. And those in the law enforcement agencies and in the prosecution service of the Government have found it difficult to prosecute. Because if an old person, especially a foreigner, is seen with a child with whom he has no relation--blood or otherwise--and they are just seen in a room and there is no way to enter the room and to see them in *flagrante delicto*, then it will be very difficult for the prosecution to charge or to hale to court these pedophiles.

So, we are introducing into this bill, Mr. President, an act that is considered already an attempt to commit child prostitution. This, in no way, affects the Revised Penal Code provision on acts of lasciviousness or qualified seduction.

Senator Pimentel. What about consented abduction?

Senator Lina. Is the distinguished Senator referring to qualified seduction?

Senator Pimentel. No, no. Consented abduction.

Senator Lina. Consented abduction. It is under Article 343, Mr. President. Still, this is not affected by this amendment.

Senator Pimentel. The reason I ask, Mr. President, is that in the crime of seduction, for example, a virgin or person with good reputation, if I am not mistaken, below 18 years old, who is seduced by a male--again, we are talking of females here--then, conceivably, the crime of seduction could be committed. The reason, more particularly, that I would like the discussion to be focused on is on that word which he used, "minor". The distinguished Sponsor is talking of minors, Mr. President.

By the way, Mr. President, may I know from the Gentleman what is now the legal age in this country?

Senator Lina. The age of majority now is 18.

Senator Pimentel. So that a person below 18--17 years of age is considered a minor--and yet, at that point when a female, a 17 year old, is seduced and voluntarily acquiesces in a sexual act, for example, the crime of rape is not present. It is very likely a case of seduction.

The question I am trying to raise is: Under that circumstance are we saying that the culprit should be prosecuted under the Gentleman's amendment or under the Revised Penal Code?

Senator Lina. It depends on the available evidence, Mr. President, in the sense that under consented abduction, the prosecution will have to prove lewd designs. When an adult abducts a virgin over 12 and under 18 years of age, the abduction is carried out with the consent of the minor and with lewd designs, then there is a penalty for this, for the abduction of a virgin.

Now, in the case of seduction, the virgin is over 12 years and under 18 years of age, committed by any person in public authority, priest, home servant, domestic, guardian, teacher, or any person who in any capacity shall be entrusted with the education or custody of the woman seduced shall be punished by *prision correccional* in its minimum and medium periods.

In the first place, Article 337, qualified seduction refers to a female, Mr. President.

Senator Pimentel. Ordinary seduction, Mr. President.

Senator Lina. This is qualified seduction. Simple seduction is seduction of a woman who is single or a widow of good reputation over 12, but under 18 years of age, committed by means of deceit. Here the subject is a woman.

In our proposal, it will be both male and female. But that is not the only difference, Mr. President. The situation that we would like to cover that will lead to easier prosecution and to overcome this present problem of government enforcement agencies in booking or charging an alleged so-called "pedophile" is that we want the fact of being present, say, inside a hotel, sauna, or an inn, between the presence of a person without any relationship with a child under 18 years of age and there is no sexual contact. It is not proved that there is sexual contact. There is no need for proof of lewd design. The fact that they are there will be considered an attempt to commit child prostitution.

We are, in effect, advancing a new concept or theory,

Mr. President, to cover this gap in our present statutes, making it easier or making it difficult for the prosecution to hale to court this so-called "pedophile". So, this is different from consented abduction, qualified seduction or simple seduction.

Senator Pimentel. That was not my impression of the Gentleman's bill. I thought that the act of abusing a child sexually would fall under his bill, and not only an act which would show that there was such an attempt, like bringing the child into a room.

Senator Lina. Mr. President, this is just one of the provisions of the...

Senator Pimentel. Yes, Mr. President. I am trying to bring out the difficulties that would be connected with the application of the distinguished Gentleman's whole bill in relation to the various provisions of the Revised Penal Code on rape, seduction, simple and qualified, consented abduction, and acts of lasciviousness.

This interpellation is, precisely, trying to elicit from the Gentleman just what kind of a prosecution and for what liability will the culprit be prosecuted under the terms of the Gentleman's bill in the light of the existing provisions also of the Revised Penal Code.

Is the Gentleman saying that this matter will now be left to the discretion of the prosecution?

Senator Lina. In some instances, Mr. President. Because the bill under consideration is a special law. There is the Revised Penal Code. In some instances, it will be to the advantage of the State to charge the culprit, depending on the evidence at hand, or to prosecute under the Revised Penal Code or under this Special Law.

Senator Pimentel. Just to clarify, Mr. President. The Gentleman is saying that the discretion is left to the prosecution to determine which law to apply. Is that what the distinguished Gentleman is saying?

Senator Lina. As I said, depending on the availability of evidence, Mr. President. Because the reason this particular amendment is being introduced, this attempt to commit child prostitution, is that, under the Revised Penal Code, it will be very difficult for the State to prose-

cute under a situation where there is the so-called pedophile and with a child in a hotel room, in a motel, and in an inn. And to hale to court this so-called pedophile, under the Revised Penal Code, the quantum of evidence necessary will be such that it will be difficult to prosecute successfully.

Senator Pimentel. I understand the Gentleman's opinion on that particular point. But my question really is much broader. I am sorry that it would seem as if I am trying to be very meticulous about this.

Senator Lina. It is all right.

Senator Pimentel. But the point is, there are existing laws that cover the sexual abuse of children already, particularly female children. What I am trying to say is, what effect will the distinguished Gentleman's bill have on these existing laws, particularly the provisions of the Revised Penal Code. That is why I tried to cite the case of rape--having sexual intercourse with a child below 12 years of age, seduction instances, qualified abduction, or acts of lasciviousness, involving minors; meaning to say, females below 18 years of age. There are already existing laws on this particular point.

Senator Lina. Mr. President, there will also be a difference in penalties when the person or the victim is 12 years old or less. That is another effect. So, there is a difference.

For example, in qualified seduction, the penalty present for all persons between the age of 13 to 17 is *prision correccional*; for acts of lasciviousness under the proposal, similar acts will be *prision mayor* if the child is 12 years or less.

Under qualified seduction, the present penalty is *prision correccional*, minimum and medium. Under the proposal, it will be *prision correccional* maximum to *prision mayor* minimum, and so on, and so forth.

Even in acts of lasciviousness, with the consent of the offended party, there is still a higher penalty. In corruption of minors, there will be a higher penalty also. In white slave trade, there will be a higher penalty. When murder is committed, and the victim is 12 years or less, there will be a higher penalty from *reclusion temporal* to

reclusion perpetua. The penalty when the culprit is below 12 years or less will be *reclusion perpetua*. The intention is to really provide a strong deterrence and special protection against child abuse and exploitation.

Senator Pimentel. So, the net effect of this amendment, therefore, is to amend the provisions of the Revised Penal Code, insofar as they relate to the victims who are females below the age of 12.

Senator Lina. That will be the net effect, Mr. President.

Senator Pimentel. We probably just have to tighten up our provisions to make that very explicit, Mr. President.

Senator Lina. Yes. During the period of individual amendments, Mr. President, that can be well taken care of.

The Presiding Officer [Senator Mercado]. Senator Saguisag is recognized.

Senator Saguisag. May I just pursue the point, if I may, Mr. President?

Senator Lina. Yes, Mr. President.

Senator Saguisag. Is it the intent or philosophy of the bill to consider someone who may be 17 years and 11 months of age, *iyon ho ba ang pananaw natin ay "children" pa?*

Senator Lina. Yes, Mr. President. Under our definition of terms, children are those who have the right to special protection under this Act; shall mean persons below 18 years of age, including those who are 18 years of age or over but unable to fully take care of themselves or protect themselves from neglect, abuse, cruelty or exploitation because of their physical or mental disability or condition.

Senator Saguisag. So that, if an adult is found in a room alone together with a minor, 17 years and 11 months of age, he loses the constitutional presumption of innocence?

Senator Lina. I beg your pardon?

Senator Saguisag. In other words, in an actual case, *ho, halimbawa, may kumatok sa kuwarto, pinatuloy, and the 17 year and 11 months old girl started seducing the occupant, who originally had thought of asking her in, maybe, to pray the rosary. That was the situation.*

Some people barged in. The man says nothing because he wants to protect the virtue and reputation of the woman, and would not want to say anything, exercising his right not to speak, his right not to have his silence taken against him, and then the woman does not speak either. What happens? Is he going to be charged with the crime of having been found alone together in a room? Will the presumption mean that if no one speaks, he is going to get convicted?

Are we not concerned about downgrading basic human rights and civil liberties just to make it convenient to convict some people? This may be innocent-looking. Still, the consequences can be far-reaching for blackmail purposes, and all that. *Dahil ang hirap po niyan na nakita lamang na nag-iisa.*

I can understand *kung talaga pong batang-isip o isip-bata, pero pag mga 16 o 17, baka naman tunay pong nagmamahalan, holding hands lang po, and they plan to marry later on. Are we going to expose them to a lot of unpleasant publicity, to deter others who may be feared to be pedophiles? There are very serious policy concerns that I think Senator Pimentel has opened our eyes to. Dahil tinanggal po yata iyong "under suspicious circumstances". I thought that was the amendment that had been proposed and the Body was asked to approve.*

Senator Lina. Yes, it will be replaced by "UNDER CIRCUMSTANCES WHICH WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT THE MINOR IS ABOUT TO BE SEXUALLY EXPLOITED."

Let me just give the background of this proposed amendment, Mr. President. The studies show that these so-called pedophiles, especially the foreigners who come to our country, who are interested to satisfy their lust on our unfortunate children, there is no crime in our statute book that will penalize a person who is seen in a motel or

in an inn. Of course, the word "minor" under the proposal is the one being questioned. But the scenario that is being looked into is, let us say, a seven-year-old or a six-year-old or a twelve year old inside a hotel room or an inn.

We are not anymore taking into consideration the walking in the street because we see in Ermita these balding foreigners walking side by side with a Filipino or a Filipina. We are not after that anymore. These nefarious activities of sexual intercourse or sodomy or acts of lasciviousness happen in the privacy of rooms, motels or inns. But because there is nothing in our statute book that penalizes being in that situation, unless the child complains that she was sexually attacked or molested, there can be no prosecution. The complaint of many NGOs is that there must be a way of the State coming in to protect the children. Whether the children gave their consent or not is immaterial.

So, iyon ang sitwasyon. I know that this is fraught with many possibilities. But the need is to address that situation, otherwise, it will be very, very difficult for the State to come in and fast to the aid of the children.

Maybe, during the period of amendments, we can redefine the word "minor" to just say, twelve years and under. We are open to that kind of amendment. We understand the predicament, especially among the human rights lawyers, that we might be infringing on the other rights. Maybe, a situation is such that there is really good faith on the part of an older person who wants to do some humanitarian act and gets into his custody a waif or a child who just roams the street, and he wants to take care of the child. That can be a possible scenario, and the question is: Why penalize a good Samaritan?

On the other hand, we have a situation, which is the most prevalent situation, whereby the so-called pedophiles are able to continue with their undesirable, unconscionable, nefarious activities, and they can get away with it because the law, at this point in time, makes prosecution very difficult.

So, we really have to weigh and we would like to get the inputs of the Chamber on how to address this particular problem.

Senator Saguisag. I guess, Mr. President, we can leave it at that at the moment. Maybe, in the period of amendments we have to look for language with a strong bias that would not trench on such valuable rights, as the right of privacy, the right of presumption to innocence, the right to be silent, the blackmail potential, and one of that may be the AIDS.

I am not really so sure that someone who is close to being 18 is as helpless as someone who is below 12. It may not even be impossible that they can be used by a syndicate to put some of these people who keep writing to us that they are blackmailed into confessing almost anything just so they can get away from this country, and then they start talking about the way their human rights are violated here, and there is also a cost we pay. But otherwise we really share the concerns. They are very valid and well-known ones.

So, magtulong-tulungan na lamang po siguro tayo pagdating sa period of amendments, and we will work together to accommodate those concerns.

Maraming salamat po.

Senator Lina. Thank you, Mr. President.

The Presiding Officer [Senator Mercado]. Are there any other Committee amendments?

Senator Lina. In addition to the last line that was read, to be inserted also after that last line, Mr. President, is this line: **THERE IS ALSO AN ATTEMPT TO COMMIT CHILD PROSTITUTION.**

The Presiding Officer [Senator Mercado]. What line would that be?

Senator Lina. Line 26, after the amendment that we have just approved. "THERE IS ALSO AN ATTEMPT TO COMMIT CHILD PROSTITUTION," under paragraph 2 of Section 4 hereof, "WHEN."

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On line 27, delete "to" and insert

between "person" and "receiving" the word "IS."

The Presiding Officer [Senator Mercado]. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Lina. On line 29, after the period, insert A PENALTY LOWER BY TWO (2) DEGREES THAN THAT PRESCRIBED FOR THE CONSUMMATED FELONY UNDER SECTION 4 HEREOF, SHALL BE IMPOSED UPON THE PRINCIPALS OF THE ATTEMPT TO COMMIT THE CRIME OF PROSTITUTION UNDER THIS ACT, OR IN THE PROPER CASE, UNDER THE REVISED PENAL CODE.

The Presiding Officer [Senator Mercado]. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Lina. One page 5, line 20, insert between "development" and "any" the following: 1. THE PENALTY FOR THE COMMISSION OF ACTS PUNISHABLE UNDER ARTICLES 248, 249, 262, SECOND PARAGRAPH, AND 263, PARAGRAPH 1 OF ACT NO. 3815, AS AMENDED, OF THE REVISED PENAL CODE, FOR THE CRIMES OF MURDER, HOMICIDE, OTHER INTENTIONAL MUTILATION, AND SERIOUS PHYSICAL INJURIES, RESPECTIVELY, SHALL BE *RECLUSION PERPETUA* WHEN THE VICTIM IS TWELVE (12) YEARS OF AGE OR LESS.

The Presiding Officer [Senator Mercado]. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Lina. Continuing, Mr. President, THE PENALTY FOR THE COMMISSION OF ACTS PUNISHABLE UNDER ARTICLES 336, 337, 339, 340 AND 341 OF ACT NO. 3815, AS AMENDED, OF THE REVISED PENAL CODE, FOR THE CRIMES OF ACTS OF LASCIVIOUSNESS, QUALIFIED SEDUCTION, ACTS OF LASCIVIOUSNESS WITH THE CONSENT OF THE OFFENDED PARTY, CORRUPTION OF MINORS, AND WHITE SLAVE TRADE, RESPECTIVELY, SHALL BE ONE DEGREE HIGHER THAN THAT IMPOSED BY LAW WHEN THE VIC-

TIM IS TWELVE YEARS OF AGE OR LESS.

SAID HIGHER PENALTY SHALL BE IMPOSED IN ITS MAXIMUM PERIOD WHEN THE PERPETRATOR IS AN ASCENDANT, STEPPARENT OR FOR COLLATERAL RELATIVE WITHIN THE SECOND DEGREE OF CONSANGUINITY OR AFFINITY.

The Presiding Officer [Senator Mercado]. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Lina. On page 8 between lines 15 and 16, insert the following: THE RULES AND REGULATIONS SHALL TAKE EFFECT AFTER PUBLICATION IN AT LEAST TWO NEWSPAPERS OF GENERAL CIRCULATION.

The Presiding Officer [Senator Mercado]. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Lina. On page 7, lines 21 to 22, delete the phrase "Council of Welfare Agencies of the Philippines", and in lieu thereof insert the phrase NATIONAL COUNCIL OF SOCIAL DEVELOPMENT FOUNDATION OF THE PHILIPPINES INCORPORATED.

The Presiding Officer [Senator Mercado]. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Lina. Those are all the Committee amendments, Mr. President.

SUSPENSION OF CONSIDERATION
SENATE BILL NO. 1209

Senator Guingona. Mr. President, I move that we suspend consideration of Senate Bill No. 1209.

I move also that we close the period of Committee amendments.

The Presiding Officer [Senator Mercado]. Is there any objection? [*Silence*] Hearing the motion is approved.

Are there any other individual amendments to this measure before us? [*Silence*]

Senator Guingona. Mr. President.

The Presiding Officer [Senator Mercado]. The Majority Floor Leader is recognized.

Senator Guingona. In view of the fact, Mr. President, that there are no further questions and amendments, I move that we close the period of amendments.

The Presiding Officer [Senator Mercado]. Are there any amendments or questions prior to the proposal of amendments?

Are there any other individual amendments to this measure before us?

Senator Guingona. Mr. President.

The Presiding Officer [Senator Mercado]. The Majority Floor Leader is recognized.

Senator Guingona. In view of the fact, Mr. President, that there are no further questions and amendments, I move that we close the period of amendments.

The Presiding Officer [Senator Mercado]. Are there any objections? [*Silence*] There being none, the period of amendments is closed.

APPROVAL ON SENATE BILL NO. 1532
ON SECOND READING

Senator Guingona. Mr. President, I move that we vote on Senate Bill No. 1532, as amended, on Second Reading.

The Presiding Officer [Senator Mercado]. We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill, as amended, will please say *Aye*. [*Several Senators: Aye*] As many as are against will please say *Nay*. [*Silence*] Senate Bill No. 1532, as amended is approved on Second Reading.

Senator Paterno. Mr. President.

The Presiding Officer [Senator Mercado]. Senator Paterno is recognized.

Senator Paterno. I will just abstain from voting, Mr. President.

Senator Guingona. I would like to manifest, Mr. President, that Senator Gonzales is a coauthor of this measure.

The Presiding Officer [Senator Mercado]. Is there any objection? [*Silence*] Hearing none, the motion is approved.

BILL ON SECOND READING
Senate Bill No. 1209--Protection Against Child Abuse
(Continuation)

Senator Guingona. Mr. President, I move that we resume consideration of Senate Bill No. 1209 as reported out under Committee Report No. 667.

The Presiding Officer [Senator Mercado]. Resumption of consideration of Senate Bill No. 1209 is now in order.

Senator Guingona. We are in the period of amendments. I ask that we recognize Senator Rasul.

SUSPENSION OF THE SESSION

The Presiding Officer [Senator Mercado]. Senator Rasul is recognized.

The session is suspended, if there is no objection. [*There was none.*]

It was 5:21 p.m.

RESUMPTION OF THE SESSION

At 5:22 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]. The session is resumed.

Senator Guingona. I am sorry, Mr. President, it is Senator Lina. I ask that we recognize Senator Lina.

The Presiding Officer [Senator Mercado]. Senator Lina is recognized.

Senator Lina. Thank you, Mr. President. This Senate Bill No. 1209, is in the period of Committee amendments. We still have additional Committee amendments.

The Presiding Officer [Senator Mercado]. Please proceed.

Senator Lina. On page 1, Mr. President, on line 19, delete the words "eighteen" and in lieu thereof, insert the word "FIFTEEN".

The Presiding Officer [Senator Mercado]. The number "(18)" will also be deleted and in lieu of the said number, "(15)" will be placed. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On line 20, insert between the words "are" and "eighteen" the phrase "FIFTEEN (15) YEARS OF AGE AND OVER BUT BELOW".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On lines 20 and 21, delete the words "or over".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On page 3, Mr. President, line 4, delete the word "Minors" and in lieu thereof, insert the words "CHILDREN BELOW FIFTEEN YEARS OF AGE".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On line 13, insert between the words "is" and "twelve" the word "UNDER" and delete the words "or less" and in lieu thereof, insert the words "OF AGE".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On lines 30 and 31, delete the word "minor" and in lieu thereof, insert the word "CHILD".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On page 4, Mr. President, line 7, delete the word "minor" and in lieu thereof, insert the word "CHILD".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On page 5, on line 11, after the period (.), insert the following: "THE PENALTY SHALL BE IMPOSED IN ITS MAXIMUM PERIOD WHEN THE VICTIM IS UNDER TWELVE YEARS OF AGE OR WHEN THE PERPETRATOR IS AN ASCENDANT, STEPPARENT OR COLLATERAL RELATIVE WITHIN THE SECOND DEGREE OF CONSANGUINITY OR AFFINITY."

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On lines 12-19, delete Section 8, and in lieu thereof, insert the following:

"SEC. 8. ATTEMPT TO COMMIT CHILD TRAFFICKING. - THERE IS AN ATTEMPT TO COMMIT CHILD TRAFFICKING UNDER SECTION 7 OF THIS ACT WHEN A CHILD TRAVELS ALONE TO A FOREIGN COUNTRY WITHOUT VALID REASONS THEREFOR AND WITHOUT CLEARANCE ISSUED BY THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT."

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On line 29, insert between "when" and "a" the words "THE PERPETRATOR IS"; and on the same line, insert between "guardian" and "permits" the word "WHO".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On page 6, line 9, insert before the word "twelve" the word "UNDER", and delete the words "or less".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On line 16, insert between "is" and "twelve" the word "UNDER"; delete the words "or less", and in lieu thereof, insert "OF AGE".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. On line 17, insert between "maximum" and "when" the word "PERIOD".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. Going back to page 1, Mr. President. Since we are still in the period of Committee amendments, we are introducing an amendment to the title. Delete the phrase "legal presumptions and", and after the word "violation", insert "AND FOR OTHER PURPOSES".

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. Mr. President, I move that a clean copy of the bill be prepared so that the Members will be able to appreciate the totality of the bill after the Committee amendments have been introduced; although we are ready now with a clean copy which can be distributed.

Senator Guingona. I, therefore, move that we close the period of amendments, Mr. President.

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Maceda is recognized.

Senator Maceda. As regards this new amendment, Section 8, that has been approved, I just want to put into the record that there are cases where parents, let us say, in the United States, because of the immigration processing, leave behind their child or children in the Philippines. There are valid cases, let us say, that once the child gets a U.S. immigration visa, he is entrusted to the stewardess. I wanted to make sure that that is not covered within the very general provisions of Section 8, because it says:

...WHEN A CHILD TRAVELS ALONE TO A FOREIGN COUNTRY WITHOUT VALID REASONS THEREFOR AND WITHOUT CLEARANCE ISSUED BY THE DEPARTMENT OF SOCIAL WELFARE AND DEVELOPMENT.

Of course, the phrase "without valid reasons" is very broad. But in the context, for example, of the example I have used, there are many cases, at this time, when children are very bright, and airlines are used to children traveling alone. I just wanted to make sure that there is no misunderstanding so that overeager law enforcement authorities could use this as an excuse to delay the departure of a child for selfish considerations.

Senator Lina. Mr. President, the language definitely stands some improvement. During the period of individual amendments, proper amendments can be introduced to tighten this particular provision.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1209

Senator Guingona. Mr. President, I move that we suspend consideration of Senate Bill No. 1209.

The Presiding Officer [Senator Mercado]. Is there any objection? [Silence] Hearing none, the amendment is approved.

The President. Resumption of consideration of Committee Report No. 667 on Senate Bill No. 1765 is now in order.

Senator Guingona. Mr. President, we are now in the period of Committee amendments. I ask that we recognize Senator Lina.

The President. Senator Lina is recognized.

Senator Lina. Thank you, Mr. President. Mr. President, I still have some additional Committee amendments to the bill under consideration, Senate Bill No. 1209, and I would like to introduce them.

I suggest, Mr. President, that these Committee amendments be introduced, and after the Committee amendments having been accepted, then we will produce a clean copy to be distributed to all the Members so that next time we take this up, then we will start with the clean copy as our working draft.

So may I be allowed to introduce the additional Committee amendments, Mr. President.

ADDITIONAL COMMITTEE AMENDMENTS

On page 2, delete lines 11 to 30.

The President. Is there any objection? [*Silence*]
Hearing none, the amendment is approved.

Senator Lina. On page 3, delete lines 1 to 6.

The President. Is there any objection? [*Silence*]
Hearing none, the amendment is approved.

Senator Lina. On page 7, delete all the words starting with "of", on line 3 up to the word "Act", on line 8, and in lieu thereof, insert the following: OF CHILD ABUSE INCLUDING THOSE COVERED BY ARTICLE 59 OF PRESIDENTIAL DECREE 603 AS AMENDED BUT NOT COVERED BY THE REVISED PENAL CODE AS AMENDED.

The President. Is there any objection? [*Silence*]
Hearing none, the amendment is approved.

Senator Lina. Mr. President, the following are

amendments as to style:

On page 1, line 17, delete letter "s" in the word "Definitions".

The President. Is there any objection? [*Silence*]
Hearing none, the amendment is approved.

Senator Lina. And then an omnibus amendment, Mr. President. Wherever the word "minor" is used, the same shall be changed to CHILD.

The President. Is there any objection? [*Silence*]
Hearing none, the amendment is approved.

Senator Lina. On page 3, line 31, delete "1" and in lieu thereof, insert A).

The President. Is there any objection? [*Silence*]
Hearing none, the amendment is approved.

Senator Lina. On page 4, line 10, delete "2", and in lieu thereof, insert B).

The President. Is there any objection? [*Silence*]
Hearing none, the amendment is approved.

Senator Lina. On page 9, line 24, delete "Secretariat", and in lieu thereof, insert SECRETARY OF SOCIAL WELFARE AND DEVELOPMENT.

The President. Is there any objection? [*Silence*]
Hearing none, the amendment is approved.

Senator Lina. Those are all the additional Committee amendments, Mr. President. We will have a clean copy for distribution to our Colleagues, and that will serve as the working draft the next time we will take this up.

Senator Herrera. Mr. President.

The President. Senator Herrera is recognized.

Senator Herrera. If I recall correctly, Mr. President, the parliamentary status of this bill is that there was a period of interpellation when I submitted an amendment inserting a Section 2 on the first page where capital pun-

ishment is included in the Declaration of Policy. And the last Member of this Body who was interpellating me was Senator Lina.

POINT OF ORDER

Senator Lina. Point of order, Mr. President.

I hope the Gentleman will not mind. What I heard, Mr. President, was Senate Bill No. 1209. This is not the Dangerous Drugs Act.

There are two bills that are scheduled for me to sponsor. Number 1 is the Dangerous Drugs Act, and the other one is the Anti-Child Abuse Bill.

Senator Herrera. That is why I am surprised why the distinguished Gentleman is presenting amendments when the Majority Floor Leader mentioned Senate Bill No. 1765 which is the Dangerous Drugs Act.

Senator Lina. I was not thinking of that, Mr. President, because we might have a voting, and those who are with Senator Herrera may not be around.

Senator Herrera. No. I am ready for the voting, Mr. President, if the distinguished Gentleman wants to vote on that now.

Senator Lina. Mr. President, as I said, the bill that I amended was Senate Bill No. 1209--The Anti-Child Abuse Bill. My mistake. It is already in the Calendar. I thought that was what the Majority Floor Leader mentioned.

Senator Herrera. Yes, because the agenda now is the Dangerous Drugs Act.

Senator Guingona. Yes.

Senator Herrera. In fact, I thought we will be voting on the amendments that I was proposing, Mr. President.

Senator Lina. ...We are ready, Mr. President. After this, then we can take up the Dangerous Drugs Act Bill.

Senator Herrera. It is all right with me, Mr. Pres-

ident.

Senator Guingona. We really called the Dangerous Act, Mr. President. To correct the misperception of Senator Lina, may I ask for the suspension of Senate Bill No. 1765, the Dangerous Drugs, and call instead Senate Bill No. 1209, Protection Against Child Abuse.

That is what he thought would be, and he was introducing amendments to the Protection Against Child Abuse.

Senator Lina. As I manifested, Mr. President, that is what I sponsored, Senate Bill No. 1209, so all the manifestations and comments referred to Senate Bill No. 1209. I do not think we have to go through the motion again. I just reiterate all those amendments. It has already been approved anyway by the Chair.

The President. Is there any objection to that procedure? [*Silence*] The Chair hears none.

BILL ON SECOND READING

Senate Bill No. 1765--Dangerous Drugs Act
(Continuation)

Senator Guingona. I move that we resume consideration of Senate Bill No. 1765 as reported out under Committee Report No. 1265.

The President. Resumption of consideration of Senate Bill No. 1765 is now in order.

It is very clear now that we are talking about the Dangerous Drugs Act.

Senator Guingona. Yes, Mr. President.

We are in the period of Committee amendments. I ask that we recognize Senator Lina.

The President. Senator Lina is recognized.

Senator Lina. Mr. President, Senator Herrera introduced an amendment to insert the Declaration of Policy, and such Declaration of Policy will be Section 2 of Senate Bill No. 1765. Senator Herrera was being interpellated when this bill was called, and that was the end of the

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ministration of the local government concerned and the DENR.”

So, it is already subject to the stringent...

The President Pro Tempore. Where is that to be found, the one just quoted?

Senator Alvarez. Page 13, line 20, Mr. President, or from line 17 to line 23.

Senator Pimentel. Yes, Mr. President, we will notice that in Section 14, what is dealt with here is the establishment of communal forests. The wordings used on lines 21 and 22 are “joint administration.” Perhaps, we can fine tune the wording by saying: UNDER THE REGULATION, not only administration by the local government unit.

Senator Alvarez “Joint administration and REGULATION”?

Senator Pimentel And REGULATION.

Senator Alvarez Accepted, Mr. President.

Senator Pimentel Yes, probably, that should be adequate for our purposes, Mr. President.

Senator Alvarez Accepted, Mr. President.

The President Pro Tempore Is there any objection to the amendment as amended by the Senator from Mindanao? [Silence] The Chair hears none; the same is approved.

What is the next amendment?

Senator Alvarez. On page 17, Section 23, line 15, Mr. President, add the phrase: OR FOR FUELWOOD OR CHARCOAL MAKING.

Senator Guingona. Mr. President, the same observations and proposed amendment to the amendment.

Senator Alvarez. COMMERCIAL.

The President Pro Tempore What does the Sponsor say?

Senator Alvarez COMMERCIAL fuel wood. Accepted, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Alvarez. The last amendment, on page 17, Section 24, line 30, the phrase: “CHARCOAL OR FUELWOOD CUT.”

Senator Alvarez. FOR COMMERCIAL PURPOSES.

The President Pro Tempore. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

The Majority Floor Leader is recognized.

Senator Guingona. Mr. President, I move that we close the period of amendments.

The President Pro Tempore. Are we closing the period of amendments?

Senator Guingona. If there are no more amendments, Mr. President.

The President Pro Tempore. Are there further amendments? [Silence] There being none, the period of amendments is closed. Why do we not first get the revised updated copy of the bill, as amended, including those adopted this morning? And then we can proceed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1404

Senator Guingona. In that case, I move that we suspend consideration of this measure.

The President Pro Tempore. Is there any objection? [Silence] Consideration of this bill is suspended.

BILL ON SECOND READING Senate Bill No. 1209 - Protection Against Child Abuse (Continuation)

Senator Guingona. Mr. President, I move that we

resume consideration of Senate Bill No. 1209, Protection Against Child Abuse. We are in the period of individual amendments.

I ask that we recognize Senator Lina.

The President Pro Tempore. Senator Lina is recognized.

Senator Lina. Mr. President.

The President Pro Tempore. Please proceed. What is the parliamentary status of the bill?

Senator Lina. We are in the period of individual amendments, Mr. President.

The President Pro Tempore. Any committee amendments?

Senator Lina. Finished, Mr. President.

The President Pro Tempore. So, we are in the period of individual amendments. Any individual amendments being proposed?

Senator Guingona. Mr. President, may I ask that copies be furnished again, with the Committee amendments, just to be sure.

The President Pro Tempore. New copies will please be distributed now.

SUSPENSION OF THE SESSION

Senator Lina. May I move for a suspension, Mr. President.

The President Pro Tempore. The session is suspended for that purpose, if there is no objection. [*There was none.*]

It was 10:47 a.m.

RESUMPTION OF THE SESSION

At 10:57 a.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Pimentel. Mr. President.

The President Pro Tempore. Senator Pimentel is recognized.

PIMENTEL AMENDMENT

Senator Pimentel. Mr. President, may I ask the Gentleman to kindly turn the page of this bill to page 2.

I have no amendment, Mr. President, on page 1. On page 2, line 7, may we insert the word PSYCHOLOGICAL after the word "includes" and before the word "physical." The sentence will now read from line 6: "b) *Child Abuse* is the maltreatment of the child which includes PSYCHOLOGICAL, physical abuse and cruelty, physical neglect, sexual abuse and emotional maltreatment."

Senator Lina. Will it not be better, Mr. President, if we say: "PSYCHOLOGICAL AND physical abuse, cruelty..."?

Senator Pimentel. Yes, it will improve the bill.

Senator Lina. Well, accepted as amended, Mr. President.

The President Pro Tempore. The Sponsor has accepted, but we have not yet referred the matter to the Floor.

Senator Lina. Accepted, Mr. President, with the amendment that the wording will be as follows: "*Child Abuse* is the maltreatment of the child which includes PSYCHOLOGICAL and physical abuse, cruelty, physical neglect", and so on and so forth.

The President Pro Tempore. There is a counterproposal from the Sponsor. What does the proponent of his amendment say?

Senator Pimentel. We accept, Mr. President.

The President Pro Tempore. Is there any objec-

tion? [*Silence*] Hearing none, the amendment is approved.

Senator Pimentel. On line 8, Mr. President, may we propose the inclusion of the following words after the word "any" and before the word "act" on line 9: VERBAL OR PHYSICAL. So, the sentence will now read: "It includes any VERBAL OR PHYSICAL act which debases, degrades..."

I am sorry, Mr. President, the placement should be after the word "act" on line 9. So that the sentence, starting from line 8, will now read as follows: "It includes any act, VERBAL OR PHYSICAL, which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being."

The reason for the amendment, Mr. President, is that, the Gentleman will notice that the enumeration from line 11 to line 6 on page 3 have been deleted; where verbal or physical acts would have been included were it not for the deletion. So, I am trying to reintroduce the concept that the abuse need not only be physical but it may also be verbal.

The President Pro Tempore. Is there a verbal act? I mean, can we not coin a better phrase? Any act by deeds or words, I suppose.

Senator Pimentel. Yes, that will be acceptable, Mr. President.

The President Pro Tempore. What does the Sponsor say?

Senator Lina. Accepted, Mr. President.

The President Pro Tempore. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

The Chair would like to propound this question. This paragraph on child abuse where we are now, this covers maltreatment and it would, therefore, apply to parents themselves. Would it not apply to parents themselves?

Senator Lina. Yes, Mr. President.

The President Pro Tempore. And parents usually chastise or discipline their children or wards by spanking. If the parents are charged with maltreatment, can they not say that it is only a parental act of chastisement? So, would not there be a need for defining maltreatment so as to come under the ambit and scope of this provision?

Senator Lina. That is correct, Mr. President. We already have the particulars of child abuse in the Child and Youth Welfare Code.

The President Pro Tempore. It is already there.

Senator Lina. Yes, in the Child and Youth Welfare Code, Mr. President, in Article 59, there is a listing of the particulars of child abuse. May I refer the President to enumeration No. 8, "inflicts cruel and unusual punishment upon the child or deliberately subjects him to indignities and other excessive chastisement that embarrass or humiliate him."

The President Pro Tempore. That would appear to be sufficient. The Chair raised that question because child abuse is usually committed by the guardians or the parents themselves.

Senator Lina. Yes, the liability attaches to everyone, including the parent, Mr. President.

For the information and guidance of our Colleagues, the phrase "child abuse" here is more descriptive than a definition that specifies the particulars of the acts of child abuse. As can be gleaned from the bill, Mr. President, there is reference in Section 10 to the "Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development."

We refer, for example, to the Revised Penal Code. There are already acts described and punishable under the Revised Penal Code and the Child and Youth Welfare Code. These are all enumerated already, Mr. President. There are particular acts that are already being punished.

But we are providing stronger deterrence against child abuse and exploitation by increasing the penalties when the victim is a child. That is number one. We define a child as "one who is 15 years and below."

The President Pro Tempore. Would the Sponsor then say that this bill repeals, by implication or as a consequence, the law he just cited for the protection of the child as contained in that Code just mentioned, since this provides for stronger deterrence against child abuse and we have now a Code for the protection of the child? Would that Code be now amended by this Act, if passed?

Senator Lina. We specified in the bill, Mr. President, increase in penalties. That is one. But, of course, that is not everything included in the bill. There are other aspects like making it easier to prosecute these cases of pedophilia in our country. That is another aspect of the bill.

The other aspects of the bill include the increase in penalties on acts committed against children; and by definition, children are those below 15 years of age.

So, it is an amendment to the Child and Youth Welfare Code, Mr. President. This is not an amendment by implication. We made direct reference to the Articles in the Revised Penal Code and in the Articles in the Child and Youth Welfare Code that are amended because of the increase in the penalties.

The President Pro Tempore. Would Senator Lina think then that, probably, it would be more advisable to specify the amendments and amend the particular provisions of the existing law rather than put up a separate bill like this?

Senator Lina. We did, Mr. President. In Section 10, we made reference to...

The President Pro Tempore. The Chair is not proposing any particular amendment. This is just an inquiry for the purpose of making some suggestions at this stage where we are now in the period of amendments.

Senator Lina. We deemed it proper to have a separate Act, Mr. President, that will include all measures to provide stronger deterrence against child abuse and exploitation. There are other aspects that are included here other than increasing the penalties that are already provided for in the Revised Penal Code and in the Child and Youth Welfare Code when the victims are children.

Aside from the penalties, there are other measures that are provided for in this Act. Therefore, to be more systematic about it, instead of filing several bills, we thought of having a separate Act that will address the problems of children below 15 years of age. This is to emphasize the fact that this is a special sector in our society that needs to be given special protection. So this bill is now being presented for consideration by the Chamber.

The President Pro Tempore. Is there any other amendment?

Senator Pimentel. Mr. President.

The President Pro Tempore. Senator Pimentel is recognized.

Senator Pimentel. My amendments, Mr. President, will now be proposed for page 7, unless there are anterior amendments.

The President Pro Tempore. Are there any anterior amendments?

Senator Guingona. Mr. President.

The President Pro Tempore. The Majority Floor Leader is recognized.

GUINGONA AMENDMENT

Senator Guingona. Just on page 2, Mr. President.

The President Pro Tempore. Please proceed.

Senator Guingona. Are teachers excluded from the coverage of child abuse?

Senator Lina. No, Mr. President.

Senator Guingona. We do not see it here. If this is applicable to parents, then it should also be applicable to teachers.

The President Pro Tempore. Is there no mention of teachers in the bill? Or are they specifically excluded?

Senator Lina. In Section 4, on page 3, Mr. President, if the form of...

The President Pro Tempore. Section 4? This is child prostitution.

Senator Pimentel. Mr. President, may I interject? Section 2, lines 15 and 16 speak of exploitation and abuse committed by parents, guardian, or person having care and custody of the same. Apparently, by expanding the meaning of "persons having care and custody," since the teachers are *in loco parentis*, it may be said that they are covered by this provision.

The President Pro Tempore. So the Majority Floor Leader has taken a position that is well-taken, because the term "teacher" is not here, and it should be here, in the opinion also of the Senator from Mindanao.

What does the Sponsor say? The amendment, if it might be stated by the Chair, as already stated by the Majority Floor Leader, is that the term "teacher" should be included here. As pinpointed by the Senator from Mindanao, it should be on line 11 of page 1. After "guardian", probably, is the best place.

Senator Lina. Mr. President, the lines adverted to by Senator Pimentel have already been deleted. From line 11 to line 13, these have already been deleted, Mr. President.

Senator Pimentel. Mr. President, are we talking of page 1?

Senator Lina. The Majority Floor Leader is referring to his amendment on page 2.

Senator Pimentel. That is why I was trying to state that, perhaps, the Declaration of Policy and Principles on page 1 can include the observation of the Majority Floor Leader so we need not debate it anymore.

Senator Lina. If the amendment is on line 11, Mr. President, the Sponsor is willing to accept the insertion of the word TEACHER on line 11, after "guardian".

Senator Guingona. Yes, Mr. President.

The President Pro Tempore. Accepted. Is there any objection?

Senator Angara. Mr. President.

The President Pro Tempore. Senator Angara is recognized.

Senator Angara. I have no objection, Mr. President. I just want to introduce another amendment.

Senator Rasul. Mr. President.

The President Pro Tempore. Senator Rasul is recognized.

Senator Rasul. Mr. President, I think we should look more deeply into the amendment presented. If we are to include teachers, this might unnecessarily constrict the performance of a teacher's job in disciplining the child. But, I would like to point out that on Section 2, *Declaration of Policy and Principles*, I think the teacher's role has already been subsumed under "guardian" or person having care or custody of the child. It is also repeated on page 2, line 16, physical neglect. Again, it is enumerated here: parents, guardian or caretaker. I think the teachers can already be subsumed under "caretaker", Mr. President.

The President Pro Tempore. Deleted.

Senator Lina. As stated, Mr. President, lines 16 and 17 have been deleted. In fact, starting line 11 to 30, these lines have been deleted on page 2.

Senator Rasul. But this is the latest copy, Mr. President.

Senator Lina. Yes. It is bracketed starting line 11, Mr. President.

The President Pro Tempore. Just to clear the atmosphere. What latest version are we as basis of this deliberation?

Senator Lina. Amended copy as of July 25, 1991, Mr. President.

Senator Pimentel. At any rate, Mr. President, whether deleted or not, the observation of Senator Rasul would still apply.

Senator Guingona. Mr. President, I take note of the

observations of Senator Rasul. But "guardians" in law have a different meaning from teachers. If this is made applicable to parents--in other words, parents cannot inflict physical injury-- how much more for teachers? We are legislating something that should be left alone to the parents, because that is family and personal relationship. We cannot legislate that. But, since it is made applicable to parents, we should make it applicable to teachers.

The President Pro Tempore. In the first place, what does the Sponsor say?

Senator Lina. As I said earlier, Mr. President, it was accepted, because the teacher under the law has different set of responsibilities as compared to parent or guardian, for that matter.

SUSPENSION OF THE SESSION

The President Pro Tempore. We shall suspend the session for a minute, if there is no objection. [*There was none.*]

It was 11:17 a.m.

RESUMPTION OF THE SESSION

At 11:24 a.m., the session was resumed.

The President Pro Tempore. The session is resumed.

We are not yet finished or through with the proposed amendment of the Majority Floor Leader, relative to the insertion of the word TEACHER on page 1, line 11, after the word "guardian."

The Chair would like to advise the Chamber that Senator Rasul who opposed the amendment proposed by the Majority Leader has withdrawn her objection.

So, the same having been already accepted by the Sponsor, the Chair would like to know if there is any objection from the Floor. [*Silence*] There being none, the amendment proposed by the Majority Leader is approved.

Senator Angara. Mr. President.

The President Pro Tempore. Senator Angara is recognized.

LINA AMENDMENT

Senator Lina. Mr. President, just for consistency. On line 15, the word TEACHER should also be inserted.

The President Pro Tempore. What page is that?

Senator Lina. Page 1. There is also an enumeration there. So, "parents, guardian, TEACHER..." just to be consistent with the amendment introduced by Senator Guingona.

The President Pro Tempore. And wherever such enumeration may be found?

Senator Lina. Yes, Mr. President.

The President Pro Tempore. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Angara is recognized.

Senator Angara. Mr. President, I am referring to page 2, lines 11 and 12. Before I put my amendment, Mr. President, can I just ask the Sponsor if the definition of "physical abuse" here means an intentional infliction?

Senator Lina. Mr. President, lines 11 to 30 have already been deleted.

Senator Angara. Lines 11 to 12?

Senator Lina. To line 30. These lines have already been deleted, Mr. President.

Senator Angara. I see. Then, I move to page 3, Mr. President, Section 4, if it is still in the original bill.

Senator Lina. Yes, Mr. President.

Senator Angara. I refer to line 9, "who for money or profit". I would like to amend this, Mr. President, to cover a situation where the minor may have been coerced or intimidated into this lascivious conduct, not necessar-

ily for money or profit, so that we can cover those situations and not leave a loophole in this section.

The proposal I have is something like this: WHO FOR MONEY, PROFIT, OR ANY OTHER CONSIDERATION OR DUE TO THE COERCION OR INFLUENCE OF ANY ADULT, SYNDICATE OR GROUP INDULGE, et cetera.

The President Pro Tempore. I see. That would mean also changing the subtitle of Section 4. Will it no longer be child prostitution?

Senator Angara. No, no. Not necessarily, Mr. President, because we are still talking of the child who is being misused for sexual purposes either for money or for consideration. What I am trying to cover is the other consideration. Because, here, it is limited only to the child being abused or misused for sexual purposes, only for money or profit.

I am contending, Mr. President, that there may be situations where the child may not have been used for profit or...

The President Pro Tempore. So, it is no longer prostitution. Because the essence of prostitution is profit.

Senator Angara. Well, the Gentleman is right. Maybe the heading ought to be expanded. But, still, the President will agree that that is a form or manner of child abuse.

The President Pro Tempore. What does the Sponsor say? Will the Gentleman kindly restate the amendment?

ANGARA AMENDMENT

Senator Angara. The new section will read something like this, Mr. President: MINORS, WHETHER MALE OR FEMALE, WHO FOR MONEY, PROFIT, OR ANY OTHER CONSIDERATION OR DUE TO THE COERCION OR INFLUENCE OF ANY ADULT, SYNDICATE OR GROUP INDULGE IN SEXUAL INTERCOURSE, et cetera.

Senator Lina. It is accepted, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the amendment is approved.

How about the title, "Child Prostitution", shall we change that too?

Senator Angara. Yes, Mr. President, to cover the expanded scope.

The President Pro Tempore. Is that not what we would call probably "child abuse"?

Senator Angara. Yes, Mr. President.

The President Pro Tempore. Is that not defined on line 2, page 6?

Senator Angara. Yes, Mr. President. Child prostitution and other sexual abuse.

The President Pro Tempore. Subject to rewording. Is there any objection? [Silence] Hearing none, the amendment is approved. Any other amendments?

Senator Angara. On the same page--I do not know if it is on the same page, Mr. President. I am trying to find that portion where it says that the enterprise such as sauna, travel agency, and recruitment agency, shall be deemed to promote or facilitate child abuse and exploitation, et cetera.

I found the section, Mr. President. On page 5, line 5, before the word "opposite", I would like to insert the words THE SAME OR OPPOSITE SEX. Because whether it is the same sex or the opposite sex, if the child is provided as a masseur, I think that is also child exploitation. So, again, we cover an apparent loophole in the law.

The President Pro Tempore. So, what is the proposal?

Senator Angara. The addition of the word SAME before ...

The President Pro Tempore. On page 5, line 5, before the word "opposite."

Senator Angara. Yes, Mr. President.

The President Pro Tempore. And then OR.

Senator Angara. OR OPPOSITE.

The President Pro Tempore. What does the Sponsor say?

Senator Lina. Accepted, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Angara. Unless there is an anterior amendment, I would like to go to page 6, Mr. President.

Section 9, line 6, I would like to insert after the word "shows" the following phrase WHETHER LIVE OR IN VIDEO, because they can make the showing in both ways.

The President Pro Tempore. What does the Sponsor say?

Senator Lina. Accepted, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Angara. If there are no anterior amendments, Mr. President, I would like to go to page 7, Section 11, the *Additional Penalties*.

The President Pro Tempore. Please proceed.

Senator Enrile. Mr. President.

Senator Angara. The Minority Leader has a prior question, Mr. President.

The President Pro Tempore. The Minority Leader is recognized.

Senator Enrile. Mr. President, I would like to ask the distinguished Sponsor if it was intentional to omit on

page 4, lines 5 to 6, which enumerates "inn, hotel, motel, pension house, appartelle or other similar establishments". Suppose the interdicted activities in this statute happen in a house, in a residence, not in any of these? Following the principle of *justum generis*, it will not be covered.

Senator Lina. It is not intentional, Mr. President. If there is an amendment to that effect...

ENRILE AMENDMENT

Senator Enrile. I would like to insert, therefore, between the preposition "of" and the article "an" the phrase A HOUSE on line 5, so that this line would read "inside the room or cubicle of A HOUSE, an inn, hotel, motel" et cetera.

The President Pro Tempore. May the Chair ask this question. Do we have to really define these places? How about such acts taking place in the open spaces?

Senator Enrile. That is correct. I was also going to ask that question. [Laughter] Under a *kawayan*. [Laughter]

Senator Lina. G. Pangulo, pagkaganoon po ang kaso, nakita na, there is no more attempt. It is already being caught in the act.

Section 5, in fact, is a novel approach to address this problem of pedophilia in the country. Ang problema dito, hanggang wala namang ginagawang pang-aabuso, hindi kita, halimbawa, inside the room, in an inn, in a cubicle, and other private places, hindi magsa-succeed iyong prosecution.

The fact that a person who is not related to the minor is seen in a hotel, inside the hotel room, in an inn, a house, a pension house, at wala naman hong relasyong talaga, kung nagkakawangawa at tumutulong doon sa bata, ang dapat gawin ay dalhin ang bata sa DSWD or any agency that takes care of them. Pero ang problema ho natin ngayon, iyong mga pedophiles na nagpupunta sa Pagsanjan at Puerto Galera ay hindi makasuhan because there is no crime under our statute, Mr. President.

Senator Enrile. Kung, halimbawa, kasama sa bahay

ng isang Hapones iyong bata, hindi naman sila related, at natuklasan iyon, ano po ba iyon?

Senator Lina. Kaya hindi ho siguro nailagay dito iyong bahay, it has to be qualified. If the house belongs to the parents of the child, medyo mahirap naman po iyong attempt.

Senator Enrile. Qualified naman po iyon, under circumstances which would lead a reasonable person to believe that the child is about to be sexually exploited. Nandoon nga ang qualification. So that even if the person happens to be in the room or in a cubicle of a house or even in an open space and one can establish that such presence is under circumstances which would lead a reasonable person to believe that the child is about to be sexually exploited, then there is the legal presumption.

Senator Lina. Yes, Sir. Tinatanggap ko po iyong inyong unang amendment. Wala pong problema doon.

Senator Enrile. Salamat po.

Senator Lina. Iyon lamang pangalawang punto ninyo--papaano po iyong nasa open na. Iyon po ay covered ng Section 4.

Senator Enrile. Kung magkasama na po sila sa Rizal Park at--

Senator Lina. They do lascivious acts, ho.

Senator Enrile. --talagang under circumstances which would lead me as my reasonable mind to believe, that the child is about to be sexually exploited, ano ba iyon?

Senator Lina. Section 4 will govern, Mr. President.

Senator Enrile. Section 4.

Senator Lina. Iyon po ay letter (b) "Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution."

The President Pro Tempore. If the Chair may interject, with the permission of the Gentlemen on the Floor.

Senator Enrile. Yes, Mr. President.

The President Pro Tempore. It says here in Section 4, just read by the Sponsor, "who indulge for money or profit in sexual intercourse...."

Senator Lina. As amended by Senator Angara--OR FOR ANY CONSIDERATION.

The President Pro Tempore. What amendment would change the point being raised by the Minority Floor Leader, and also mentioned incidentally by the Chair?

Senator Lina. In short, if they are already caught, it is in the open, sexual intercourse takes place in Rizal Park or lascivious acts are already being committed, Section 4 na po ang maggo-govern. Hindi na po "attempt."

The President Pro Tempore. That assumes consent here.

Senator Enrile. Halimbawa po, nasa swimming pool, at natuklasang hubad na hubad silang dalawa.

The President Pro Tempore. The Chair believes that below a certain age the consent is immaterial.

Senator Lina. Below fifteen nga po ang definition dito. Kaya, pagka nakita po sa swimming pool--

Senator Enrile. Pareho silang hubad na hubad at naliligo. Walang ginagawa. Walang touching po, basta naliligo lamang. Walang akapan, walang touching, naliligo lamang sila. Ano po ang ibig sabihin noon? Hindi po ba puwedeng sabihin, kagaya ng standard na ginamit natin, na UNDER CIRCUMSTANCES WHICH WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT THE CHILD IS ABOUT TO BE SEXUALLY EXPLOITED, OR ABUSED.

Senator Lina. Kung mayroon pong balangkas or amendment to cover that situation, tatanggapin ng Representation na ito. Baka ang sitwasyong iyon ay hindi na ma-cover nito sapagkat, at the back of our minds, Mr. President, ang sitwasyong talagang gusto nating ma-address ay maparusahan iyong tinatawag na "pedophilia" or prey on our children. Hindi sila makakasuhan sapagkat

their activities are undertaken or are committed in the privacy of homes, inns, hotels, motels and similar establishments.

Senator Enrile. Kung sila po ay mahuli sa loob ng kotse, van o sasakyan o sa loob ng kuwarto sa isang barko, iyon ba ay covered ng provision na ito? Iyon lamang ang nililinaw ko sapagkat, alam ninyo, criminal act ito. Magagaling ang mga abogado hahawak sa mga kasong iyan kaya kailangang matibay ang batas natin.

Halimbawa, nasa loob po sila ng yate, sila lamang dalawa sa yate; hindi inn iyon, hindi kasama sa hotel, motel, pension house, apartelle, and there is no way to say that these are similar establishments. Kung nasa yate, nasa barko, nasa kotse, nasa tricycle, paano po kaya iyon?

Senator Lina. At saka wala pa hong touching-touching.

Senator Enrile. Wala pa, pero kung nasa loob ng kulambo ay maliwanag iyon.

Senator Lina. At saka po naked.

Senator Enrile. Opo.

Senator Lina. Ang kinakailangan talaga, halimbawa, in a state of being undressed, kung nasa loob ng kotse.

Senator Enrile. Wala po silang ginagawa, pero nasa loob sila ng cabin ng yate, at iisa lamang ang higaan sa cabin na iyon, ano po ang ibig sabihin noon? Iisa lamang ang banyo sa cabin na iyon, iisa lamang ang higaan, nakabaro sila ngunit under those circumstances, ano ang gagawin natin? Hindi ba magagamit iyong UNDER CIRCUMSTANCES WHICH WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT THE CHILD IS ABOUT TO BE SEXUALLY EXPLOITED. Wala naman silang relasyon; they have no blood relationship, there is no accidental relationship like a godchild to a godfather.

Senator Lina. If there are additional circumstances, katulad ng nasa kotse at hubad na hubad po, I think we can include that kind of a situation--kung sila lamang dalawa ang nasa yate at walang relasyon. Ang ating pong

gusto ay maproteksiyunan iyong bata. The doubt is resolved in favor of the child. Maaari po iyong mga vehicles, vessels, inside the cabin.

Senator Enrile. Perhaps, any enclosed areas where the possibility of committing the act is apparent.

Senator Lina. Kung maika-craft po natin in that language, tatanggapin ko po iyong amendment.

Senator Enrile. Mayroon po akong itatanong sa inyo tungkol sa Section 7. Ang thrust nitong Section 7 ay, it imposes a penalty of *reclusion temporal* to *reclusion perpetua* for those who shall engage in trading and dealing with a child. Then, it speaks of an act of business of buying and selling a child. A single act po ba dito will be considered a business?

When we talk of business of buying and selling, we are not really talking of the real meaning of the word "business" here, but simply the act of selling, and that is what it meant.

Siguro, mas maigi po na tanggalin na lamang natin iyong business, the "act of buying and selling," para maliwanag na iyong single act is enough to make this Section 7 apply.

Senator Lina. Accepted, Mr. President. So, remove "or business."

The President Pro Tempore. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Enrile. Itong engage in trading and dealing with...

The President Pro Tempore. Just a while. The first amendment proposed by the Minority Floor Leader which has been accepted by the Proponent has not yet been accepted by the Floor.

Is there any objection to that first amendment of the Minority Floor Leader, which... Can the Gentleman kindly repeat the first amendment?

Senator Enrile. I would like to ask for the deletion

of the words "or business" on line 13, following the word "act".

The President Pro Tempore. The first one that was accepted.

Senator Lina. That is it. That is the first amendment.

The President Pro Tempore. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Enrile. On the same Section, which reads: "The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed upon any person who shall engage in trading and dealing with a child," maybe, we should change the words "a child" to CHILDREN, because when we talk of engaging in trading, that is a repetitive act. We cannot engage in trading by just doing a single act, which is covered actually by the amendment that I previously inserted.

So, I would suggest that we change the words "a child" to CHILDREN. So that the language would be: "The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed upon any person who shall engage in trading and dealing with CHILDREN, including, but not limited to, the act of buying and selling of a child for money", et cetera.

Senator Lina. Accepted, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Enrile. Salamat po.

The President Pro Tempore. Senator Angara is recognized again.

ANGARA AMENDMENT

Senator Angara. I have two very short amendments, Mr. President. On page 7, lines 14 and 15, I would like to amend the sentence beginning with the "If the offender is a government official" to read as follows: "If

the offender is a government official or employee, the additional penalty of IMMEDIATE DISMISSAL FROM PUBLIC OFFICE AND disqualification to hold THE SAME shall likewise be imposed."

Senator Lina. Accepted, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Angara. Then on Section 12, a grammatical amendment, Mr. President, on line 25, insert the phrase WHO IS AN between the word "child" and "offended" so that the sentence will read: "A child who is an offended party."

Senator Lina. Accepted, Mr. President.

Senator Angara. Thank you, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Pimentel. Mr. President.

The President Pro Tempore. Senator Pimentel is recognized.

Senator Pimentel. Same page, line 28, Mr. President.

The President Pro Tempore. Page 7, line 28.

PIMENTEL AMENDMENT

Senator Pimentel. Yes. Delete the word "offender" and insert another word. What is the meaning of this sentence, Mr. President? May I ask the Sponsor? Are we talking here of the offender who abuses the child or a child who is an offender?

Senator Lina. The offender himself, Mr. President, the one who commits the act against the child.

Senator Pimentel. So, can we just eliminate the adjective child then, Mr. President, otherwise, it tends to confuse.

The President Pro Tempore. The amendment of the Senator from Mindanao refers to line 28, which is to remove the word "child" after the word "The".

Senator Pimentel. It is really only a matter of style, Mr. President, so that we are not confused.

Senator Lina. Mr. President, as I stated a while ago, the offender here refers to the person who commits the act against the child but the offender is a youth offender, as referred to in the Child and Youth Welfare Code. There is a different set of procedures and guidelines in the prosecution of what we call "child-offenders," Mr. President.

Senator Pimentel. Yes, we are aware of that, but if we retain the word "child" here, it will modify the word "offender", and the first impression that any reader would get is that the offender is a child. I do not think we lose anything here by deleting the word "child" and just say "The offender shall be proceeded...." Because we are talking about the offender of a child, as provided for under Executive Order No. 56.

Senator Lina. Accepted, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Pimentel. And finally, Mr. President, on page 9, may I make this proposal: That we do not create another bureaucratic board just to implement this law or, as the wording here, "to advise the Department of Social Welfare". I would rather suggest that the Department of Social Welfare and Development shall create a special division within the Department to implement this Act.

The concept, Mr. President, is that the DSWD may call upon the Department of Justice, the National Council of Social Development Foundation of the Philippines, the President of the Child Welfare League, the representatives of other sectors, of private sectors, to assist in the formulation of policies and programs to carry out the objectives of this Act. That is the idea. And to eliminate the creation of another bureaucracy.

My proposal, therefore, is to delete, starting from

line 1 as follows: "There is hereby created a National Advisory Board on Child Abuse and Exploitation to advise", that is up to line 2. Delete the entire phrase and then capitalize the word "The" on line 2 so that the sentence will now read: "The Department of Social Welfare and Development shall create a special division to implement the--"

The President Pro Tempore. The Chair probably would like to take a lead here.

Senator Pimentel. Yes, Mr. President.

The President Pro Tempore. What the Senator from Mindanao means is just to delete paragraph starting from line 1 on page 9 down to line 24. Then start from line 25 by amending that a little bit by saying: "The Secretary of Social Welfare and Development shall create a National Advisory Council to assist in the implementation of this Act." Something like that.

Senator Pimentel. That is the concept, Mr. President, but authorizing the Department to call upon other government agencies as well.

Senator Rasul. Mr. President.

The President Pro Tempore. Senator Rasul is recognized.

Senator Rasul. With the consent of the distinguished Sponsor of the amendment, we have the beginning of that Section 13 on page 18.

The President Pro Tempore. Page 8.

Senator Rasul. On page 8, line 24, I propose to delete the entire section and put Section 13, the amendment of the distinguished Sponsor. So the section will no longer have a National Advisory Board. It will have instead a National Advisory Council.

Senator Pimentel. Yes, Mr. President, because the tendency among us is to pile bureaucracy upon bureaucracy. We are very fond of multiplying bureaucracies in government.

The President Pro Tempore. The Chair takes it that

this is a point that probably might need a little thinking and deliberation, particularly on the part of the Sponsor.

Senator Guingona. Mr. President.

The President Pro Tempore. The Majority Floor Leader is recognized.

Senator Guingona. Perhaps they should have time to formulate it.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1209

There are others who made reservations to propose amendments. So I move that we suspend consideration of this measure.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Guingona. Mr. President, there is an Additional Reference of Business.

The President Pro Tempore. The Secretary will please read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS
RESOLUTION

The Secretary. Proposed Senate Resolution No. 1239, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE FOR THE PRESIDENT OF THE PHILIPPINES TO ALLOW THE REMAINS OF FORMER PRESIDENT FERDINAND MARCOS TO COME HOME NOW IN THE SPIRIT OF NATIONAL RECONCILIATION.

Introduced by Senators Estrada, Maceda, Guingona,

Jr., Herrera, Mercado, Tamano, Laurel and Tañada.

Senator Guingona. Mr. President.

The President Pro Tempore. The Majority Floor Leader is recognized.

Senator Guingona. Senator Rasul has expressed her desire to be included as coauthor of this resolution.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the same is approved.

Proposed Senate Resolution No. 1239 is now referred to the Committees on National Defense and Security; and Justice and Human Rights.

SPECIAL ORDERS

Senator Guingona. Yes, Mr. President. May I move that the following Senate Bill Nos. 1763, 1365, 748 and 672 be transferred to the Calendar for Special Orders.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Guingona. Mr. President, the proposed agenda for next week is to be distributed to the Senators' respective residences and offices.

ADJOURNMENT OF THE SESSION

I move that we adjourn the session until four o'clock Monday afternoon.

The President Pro Tempore. The session is adjourned until four o'clock Monday afternoon, if there is no objection. [There was none.]

It was 12:00 noon.

Products. - All other forest products of forest lands which are not covered by the preceding sections shall be exempt from any or all forest charges, except rattan, gums and resins, beeswax, guta-percha, almaciga resin and bamboo which shall be charged at ten percent (10%) of the actual FOB market price."

SEC. 6. There shall be added a new section after Section 72 of Presidential Decree No. 705, to be known as Section 73, to read as follows:

"Section 73. *Effectivity and Application of Forest Charges and Determination of Market Price of Forest Products.* - The rates of forest charges provided for in Sections 70, 71 and 72 hereof shall be effective upon approval of this Act. The new rates shall be published in the Official Gazette or in two (2) newspapers of national circulation and shall also be posted in conspicuous places in the different Department of Environment and Natural Resources field offices.

"The actual FOB market price of forest products shall be justly determined once a year by the Secretary of Environment and Natural Resources: *Provided*, That he shall cause the creation of a Committee to be composed of representatives from the Department of Environment and Natural Resources, the National Economic and Development Authority, the Department of Trade and Industry, the Bureau of Internal Revenue and the wood and furniture industry and consumer sectors which shall formulate criteria and/or guidelines in the determination of the actual FOB market price to be used as the basis for the assessment of the ad valorem tax, taking into consideration production cost (developing cost, contingencies and miscellaneous cost), species and grade of timber, government share, reforestation, tariff duties, taxes, risk involved and a reasonable margin of profit for domestic and export market prices for wood and wood products.

"These forest charges shall be applied to naturally growing timber and forest products gathered within public forest lands, alienable and disposable lands and private lands. Forest charges collected shall be in lieu of the administrative charge on environment and other fees and charges imposed thereon: *Provided*, That planted trees and other forest products harvested from industrial tree plantations, and private lands covered by existing tiller or by approved land application are exempted

from payment of forest charges."

SEC. 7. Section 77 of Presidential Decree No. 705, as amended, as numbered herein, is hereby repealed.

Section 68 of Presidential Decree No. 705, as amended by Executive Order No. 277 dated July 25, 1987, and Sections 68-A and 68-B, of Presidential Decree No. 705, as added by Executive Order No. 277, are renumbered as Sections 77, 77-A and 77-B.

Accordingly, the succeeding Sections 69 to 80 of Presidential Decree No. 705, as amended, are renumbered as Sections 78-89, respectively, and Sections 80-A, 80-B to 83 are renumbered as Sections 89-A, 89-B to 92, respectively.

SEC. 8. This Act shall take effect fifteen (15) days after publication in a newspaper of general circulation.

Approved.

BILL ON SECOND READING
Senate Bill No. 1209--Protection Against Child Abuse
(Continuation)

Senator Guingona. Mr. President, I move that we resume consideration of Senate Bill No. 1209, as reported out under Committee Report No. 667.

The President. Resumption of consideration of Senate Bill No. 1209 is now in order.

Senator Guingona. Mr. President, we are in the period of individual amendments.

I ask that we recognize Senator Lina.

The President. Senator Lina is recognized.

Senator Lina. Thank you, Mr. President.

Last time, Senator Pimentel introduced an amendment, but after he introduced the amendment, the session was suspended to enable the Members of the Chamber to study the proposed amendment.

The proposed amendment is to delete Section 13 of the bill. This Section 13 refers to the establishment of a National Advisory Board, which shall advise the Department of Social Welfare and Development on matters of child abuse and exploitation. Instead of a National Advisory Board, the Honorable Senator suggested the creation of a division within the Department of Social Welfare and Development. That was the gist of the proposal.

But in view of the difficulty also of having a separate division for child abuse and exploitation, the evil which the amendment seeks to eliminate will, in effect, really come about because a new structure is being organized--a formal division within the Department of Social Welfare and Development.

After studying the matter, maybe the better approach is, since this is a National Advisory Board and the objective is to tap the non-governmental organizations to help in the campaign against child abuse and exploitation, which is within the power of the present DSWD or any agency for that matter, it can go out of its way and tap the NGOs. Definitely, I believe that the Department of Social Welfare and Development has some resources or funds to utilize in order to mobilize and rally the NGOs to help in the matter of preventing or eradicating child abuse and exploitation.

So, my counter proposal to Senator Pimentel's proposed amendment is that, instead of creating a division, let us remove altogether Section 13. This can be done anyway. Without institutionalizing the National Advisory Board, the DSWD is not helpless in helping create a body of NGOs that will assist it in the accomplishment of the objectives set in this bill.

Senator Pimentel. Mr. President, we accept the counter amendment. That is even a better proposal.

The President. So Section 13 will be deleted entirely.

Senator Lina. Yes, Mr. President.

The President. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. Therefore, Section "14" on page 10

will now be Section 13 and so on and so forth, Section "15" will be Section 14, Section "16" will be Section 15, Section "17" will be 16; and, Section 18 will be Section 17.

The President. All right. Is that an omnibus amendment?

Senator Lina. Yes, Mr. President.

The President. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Lina. I have here proposed amendments from Senator Leticia Ramos Shahani. She is not in the Hall right now. The proposed amendments consist of three pages, I do not think we have the time to discuss it this morning.

The President. Has that been distributed already?

Senator Lina. Not yet, I am the only one who has a copy of the proposed amendment of three pages. I request that this be taken up after distribution. But, it is ten minutes to 12:00 noon; I do not think it is feasible to have this discussed.

The President. Probably, we should have that photocopied and distributed.

Senator Lina. Yes, Mr. President.

Senator Laurel. Mr. President.

The President. Senator Laurel is recognized.

Senator Laurel. May I just ask, for purposes of clarification, the position of the Sponsor relative to Section 15, which is now Section 14, and that is, the appropriation in the amount of ₱100,000.00 for the initial year of operation. Is the appropriation of such an amount justified in the light of the deletion of Section 13?

Senator Lina. Yes, that is a very valid concern. Now that we have abolished, we will no longer incorporate the National Advisory Board, I do not see--

Senator Laurel. Mr. President, I ask for reconsideration of the--if that is so.

Senator Lina. I am sorry, Mr. President. This P100,000 is an additional amount that will be given to the Department of...

SUSPENSION OF THE SESSION

May I move for a one-minute suspension, Mr. President.

The President. The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 11:52 a.m.

RESUMPTION OF THE SESSION

At 11:52 a.m., the session was resumed.

The President. The session is resumed.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1209

Senator Guingona. May we just ask for the suspension of the consideration. Anyway, Senator Lina is waiting for the Shahani amendment.

I move that we suspend consideration of Senate Bill No. 1209.

The President. Is there any objection? [*Silence*] Hearing none, the motion for suspension is approved.

MOTION OF SENATOR GUINGONA (Recommittal of Senate Resolution No. 378 to the Foreign Relations Committee)

Senator Guingona. On behalf of the Committee on Rules, I move that Committee Report No. 1206 on Proposed Senate Resolution No. 378, concerning the Abrogation of the RP-US Mutual Defense Treaty, be recommended to the Committee on Foreign Relations, in order that the Committee could substantiate its recommendation letter with the original text as signed by the Committee Members, and in order that the Committee could enclose the background report which was also attached to the original Committee Report. This was upon request of Senator Shahani.

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

ADJOURNMENT OF THE SESSION

Senator Guingona. Mr. President, I move that we adjourn the session until four o'clock Monday afternoon.

The President. The session is adjourned until four o'clock Monday afternoon, if there is no objection. [*There was none.*]

It was 11:53 a.m.



make. I have always been of the view that we should never really act on a Conference Committee Report on the same day that it is distributed. And now that Senator Herrera's name was mentioned, and he has taken a very strong position on it, kung papayag ang ating mga Kasama, baka mas mabuting sa Lunes na natin pagbotohon ito, so that we can give Senator Herrera a chance to air his views.

But for the record, I really would want to go on record again that we should not act on a Conference Committee Report without any forewarning, especially on a Thursday, because some of us may want to go on record or may want to ask questions.

Iyon po ang pakiusap ko. Noong panahon pa yata ito ni Senador Mercado. Kung minsan ay nire-retrieve natin ang mga materials na hindi natin dala. Nagkokonsulta po tayo. So, in the future, I would hope that we would be given at least 24 hours before we are asked to vote on a Conference Committee Report.

Here, the only reason I am requesting that is that I know my Seatmate may want at least to ask a few questions or go on record because he fought so long and so hard in regard to one aspect of the bill. But I would not insist really kung...

SUSPENSION OF CONSIDERATION OF
CONFERENCE COMMITTEE REPORT ON
HOUSE BILL NO. 28970

Senator Guingona. Yes, Mr. President. In view of that, I move that we suspend consideration of this Conference Committee Report.

The Presiding Officer [Senator Ziga]. Is there any objection? [*Silence*] Hearing none, we suspend consideration of the Conference Committee Report.

Senator Guingona. I would just like to state, Mr. President, that what was agreed upon in caucus was Third Reading and not necessarily Conference Committee Reports. But since the distinguished Senator has requested for deferment of consideration of the Conference Committee Report we have made the corresponding action.

BILL ON SECOND READING

Senate Bill No. 1209--Protection Against Child Abuse
(Continuation)

Senator Guingona. Mr. President, as a last item, may I ask that we resume consideration of Senate Bill No. 1209 as reported out under Committee Report No. 667.

The Presiding Officer [Senator Ziga]. Resumption of consideration of Senate Bill No. 1209 is now in order.

Senator Guingona. Mr. President, we are in the period of individual amendments. I ask that we recognize Senator Lina.

The Presiding Officer [Senator Ziga]. Senator Lina is recognized.

COMMITTEE AMENDMENTS

Senator Lina. Thank you, Mr. President. I just have a few minor amendments.

On page 10 of Senate Bill No. 1209, in view of the deletion of Section 13, the section that creates a National Advisory Board, there is no more necessity for line Nos. 9, 10 and 11.

On line 9, I move to amend by deleting the phrase: "with the advise and recommendations of the National Advisory Board," and in its stead add the following words: IN CONSULTATION WITH ENTITIES CONCERNED WITH THE PROMOTION OF CHILD WELFARE.

The Presiding Officer [Senator Ziga]. Are there any objections? [*Silence*] There being none, the amendment is approved.

Senator Lina. On line 17, Mr. President, instead of "P100,000", THREE HUNDRED THOUSAND (P300,000) PESOS.

The Presiding Officer [Senator Ziga]. Are there any objections? [*Silence*] There being none, the amendment is approved.

SHAHANI AMENDMENTS

Senator Lina. Mr. President, Senator Shahani is around but she handed me the following proposed individual amendments. I will just read them.

On page 1, Section 2, lines 6 and 7, after the word "abuse" add a comma and the words NEGLECT, CRUELTY.

It is accepted, Mr. President.

The Presiding Officer [Senator Ziga]. Are there any objections? [Silence] There being no objection, the amendment is approved.

Senator Lina. Still on page 1, Section 2, line 7, after the word "exploitation", add the following words AND OTHER CONDITIONS PREJUDICIAL TO THEIR DEVELOPMENT.

It is accepted, Mr. President.

The Presiding Officer [Senator Ziga]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina. Still on page 1, Section 3, line 19, after the word "person," add the word OF EITHER SEX.

It is accepted, Mr. President.

The Presiding Officer [Senator Ziga]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina. On page 2, line 2, after the word "age", add the words OR THOSE OVER.

It is accepted, Mr. President.

The Presiding Officer [Senator Ziga]. Are there any objections? [Silence] There being none, the amendment is approved.

Senator Lina. On page 2, letter (b), line 6, after the word "maltreatment" insert the following words:

WHETHER HABITUAL OR NOT.

It is accepted, Mr. President.

The Presiding Officer [Senator Ziga]. Is there any objection? [Silence] There being no objection, the amendment is approved.

Senator Lina. And then page 2, letter (b), line 11, after the last sentence, add the following:

IT INCLUDES UNREASONABLY DEPRIVING HIM OF BASIC NEEDS FOR SURVIVAL, SUCH AS FOOD AND SHELTER OR A COMBINATION OF BOTH. IT SHALL ALSO INCLUDE A CASE OF AN ISOLATED EVENT WHERE THE INJURY IS OF A DEGREE THAT IF NOT IMMEDIATELY REMEDIED COULD SERIOUSLY IMPAIR THE CHILD'S GROWTH AND DEVELOPMENT OR RESULT IN PERMANENT INCAPACITY OR DEATH.

It is accepted, Mr. President.

The Presiding Officer [Senator Ziga]. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lina. On page 4, Section 5, line 10, after the word "establishment," add the words VESSEL, VEHICLE OR ANY OTHER HIDDEN OR SECLUDED AREA.

It is accepted, Mr. President.

The Presiding Officer [Senator Ziga]. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Lina. On page 5, Section 8, line 29, after the word "DEVELOPMENT," add the words OR WRITTEN PERMIT OR JUSTIFICATION FROM THE CHILD'S PARENTS OR LEGAL GUARDIAN.

The Presiding Officer [Senator Ziga]. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Lina. Those are the amendments coming

from Senator Leticia Ramos-Shahani, Mr. President.

Senator Maceda. Mr. President.

The Presiding Officer [Senator Ziga]. Senator Maceda is recognized.

Senator Shahani. Mr. President, I just would like... I am sorry.

The Presiding Officer [Senator Ziga]. Senator Shahani is recognized.

Senator Shahani. I wonder if Senator Lina has seen the amendment that I would have wanted also to propose for page 9, Section 13...

Senator Lina. Letter (e), line 2?

Senator Shahani. Up to the word "Development."

Senator Lina. Mr. President, Section 13 has been deleted through an amendment introduced already. It has been deleted, so we cannot amend something that has already been deleted.

Senator Shahani. Oh, I see. Thank you, Mr. President.

The Presiding Officer [Senator Ziga]. Senator Maceda is recognized.

MACEDA AMENDMENT

Senator Maceda. I have just an omnibus amendment for Section 4, Child Prostitution, and Section 7, Child Trafficking. Mr. President, the idea is that, in one of the Sections, where it is a recruitment agency, the license is considered revoked. But, many times, those who recruit are illegal recruiters, people who have no licenses or whose licenses have expired or have been revoked, et cetera. I just want to suggest that, in case they are so-called illegal recruiters, the penalty should also be in the maximum period.

Senator Lina. Accepted, Mr. President, subject to the styling.

The Presiding Officer [Senator Ziga]. Is there any

objection? [Silence] The Chair hears none; the amendment is approved.

Senator Shahani is recognized.

Senator Shahani. Mr. President, I just would like to make a manifestation that I should be interested in being a cosponsor of this bill, if the main Sponsor would accept.

Senator Lina. Yes, with pleasure, Mr. President.

The Presiding Officer [Senator Maceda]. The Secretariat is advised to make of record that Senator Shahani is a cosponsor.

Senator Guingona. Mr. President, I move that we close the period of amendments.

The Presiding Officer [Senator Ziga]. Is there any objection? [Silence] The Chair hears none; the amendment is approved.

Senator Guingona. Perhaps, we should have clean copies of this bill.

Senator Lina. Mr. President, just to clarify things, Senator Shahani will be a coauthor and a cosponsor, as well.

The Presiding Officer [Senator Ziga]. Coauthor and Cosponsor; so noted.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1209

Senator Guingona. May we have clean copies before we act on the measure, Mr. President.

In view of that, I move that we suspend consideration of this measure.

The Presiding Officer [Senator Ziga]. Is there any objection? [Silence] The Chair hears none; the motion is approved.

The Presiding Officer [Senator Ziga]. Let clean copies of this bill be printed.

BILL ON SECOND READING

Senate Bill No. 1209 - Protection Against Child Abuse
(Continuation)

Senator Guingona. Mr. President, I move that we resume consideration of Senate Bill No. 1209, Protection Against Child Abuse.

I ask that we recognize Senator Lina.

The President Pro Tempore. Senator Lina is recognized.

What is the parliamentary status of the bill?

Senator Lina. It is for voting on Second Reading, Mr. President.

Senator Guingona. Yes, Mr. President. We caused the new clean copies to be distributed, and they have been so distributed.

Senator Lina. Just two typographical errors, Mr. President.

On page 3, line 12, instead of "have" it should be HAS, such that the line will now read: "such license has expired or HAS been revoked." Just a typographical error, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] Hearing none; the amendment is approved.

Senator Lina. On line 7, page 7, insert the word THE between the words "in" and "appropriate," so that the line will read: "offenders and in THE appropriate case receive care and assistance."

The President Pro Tempore. Is there any objection? [Silence] Hearing none; the amendment is approved.

Senator Guingona. I move that we approve this measure on Second Reading, Mr. President.

The President Pro Tempore. Just a while. The Chair would like to call attention to Section 4. There

seems to be, in that Section 4 of the bill, something that should be corrected or clarified because there seems to be something odd about the punishment here being imposed on those who promote or facilitate child prostitution, those who commit the act of sexual intercourse, or lascivious conduct with a child exploited in prostitution, provided that when the victim is under 12 years of age, the perpetrator shall be prosecuted under Article 335, paragraph 3.

The penalty in the case of those who commit acts of lasciviousness is that they are punished under the Penal Code with merely *prision correccional*. That seems to be rather odd, because this is if the child, in the Penal Code, is less than 15, the penalty is higher or heavier. That is *reclusion temporal*, whereas, if the child is less than 12, it is only *prision correccional*.

SUSPENSION OF THE SESSION

Shall we suspend the session for a few minutes to allow a little *tete-a-tete* on this particular point being raised by the Chair, if there is no objection?

Senator Lina. There is no objection.

It was 5:34 p.m.

RESUMPTION OF THE SESSION

At 5:40 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

The Majority Floor Leader.

SUSPENSION OF THE CONSIDERATION
OF SENATE BILL NO. 1209

Senator Guingona. Mr. President, in view of the fact that there are some items that have to be clarified, the Sponsor agrees that we suspend consideration of this measure. I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] Hearing none, the motion is approved.

Hearing none, the amendment is approved.

Senator Shahani. On line 26, the words "THE VICE-PRESIDENT" is also a Committee amendment.

The President. Is there any objection? [Silence]
 Hearing none, the amendment is approved.

Senator Shahani. On line 26 up to line 27, the words in brackets, "elected among the members of the Board of Directors," is to be deleted.

The President. Is there any objection? [Silence]
 Hearing none, the amendment is approved. Let us go to the next page.

Senator Shahani. Page 17, Mr. President, line 7, the word at the end of the line "FULL" is a Committee amendment.

The President. Is there any objection? [Silence]
 Hearing none, the amendment is approved.

Senator Shahani. On line 8, the word "TIME" before "representative," and the following words after the word "representative": "WHOSE COMPENSATION SHALL BE APPROVED BY THE BOARD."

The President. Is there any objection? [Silence]
 Hearing none, the amendment is approved.

Senator Shahani. On line 11, the words "FULL-TIME" should be added before the word "auditor".

The President. Is there any objection? [Silence]
 Hearing none, the amendment is approved.

No more committee amendments?

Senator Shahani. I think that is the end of the Committee amendments, Mr. President.

The President. There are some phrases that we omitted. Shall we clarify those sections that have been omitted for purposes of future discussion?

Senator Shahani. Mr. President, I think, subject to the receipt of more detailed information, we have previ-

ously agreed that on page 11, the amendments appearing from lines 21 onto page 12, line 12 is still under consideration. And I think, if we receive the information tomorrow morning, we can continue with the discussion of these portions of the bill.

The President. All right. I would like to call the attention of our Colleagues to the presence of distinguished scientists in our midst. Is there a motion to defer consideration of this bill so we can declare a break and meet with them?

SUSPENSION OF CONSIDERATION
 OF SENATE BILL NO. 1648

Senator Guingona. I move, Mr. President, that we suspend consideration of this bill.

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

SUSPENSION OF THE SESSION

We shall now suspend the session so we can meet with these distinguished scientists, if there is no objection. [There was none.]

It was 5:32 p.m.

RESUMPTION OF THE SESSION

At 6:30 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING
 Senate Bill No. 1209--Protection Against Child Abuse
 (Continuation)

Senator Guingona. Mr. President, I move that we resume consideration of Senate Bill No. 1209 as reported out under Committee Report No. 667.

We have terminated the amendments, Mr. President. Last time, we were only asking for a clean copy. I believe that the clean copies have been distributed. So, I ask that we recognize Senator Lina.

COMMITTEE AMENDMENT

Senator Lina. Thank you very much, Mr. President. Except for one minor point on page 7, line 5, after the figure "No. 56", just add the words, "SERIES OF 1986", just to identify when the Executive Order was issued.

That will be all, a very minor point, Mr. President, as a last amendment.

At this juncture, the Honorable Senate President Jovito R. Salonga relinquished the Chair to Senator Ernesto M. Maceda, presiding.

The Presiding Officer [Senator Maceda]. Any objection to the amendment? [Silence] There being none, the same is approved.

Senator Guingona. I, therefore, move that we close the period of amendments, Mr. President.

The Presiding Officer [Senator Maceda]. Is there any objection? [Silence] The period of amendments is closed.

APPROVAL OF SENATE BILL NO. 1209
ON SECOND READING

Senator Guingona. Mr. President, I move that we vote on Senate Bill No. 1209, as amended, on Second Reading.

The Presiding Officer [Senator Maceda]. We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill, as amended, will please say *Aye*. [Several Senators: *Aye*]. As many as are against will please say *Nay*. [Silence]

Senate Bill No. 1209 is approved on Second Reading.

BILL ON SECOND READING
Senate Bill No. 234--Urban Development
and Social Housing Program
(Continuation)

Senator Guingona. Mr. President, I move that we

resume consideration of Senate Bill No. 234 as reported out under Committee Report No. 1397.

The Presiding Officer [Senator Maceda]. Resumption of consideration of Senate Bill No. 234 is now in order.

Senator Guingona. Mr. President, we are in the period of interpellations. I ask that we recognize Senator Lina.

The Presiding Officer [Senator Maceda]. Senator Lina is recognized.

Senator Lina. Yes, Mr. President, we are ready for the question.

Senator Gonzales. This is a very, very important bill. And considering the present number of Members of this Body, I feel that we ought to defer consideration of this bill when such number of Members of this Body are present, Mr. President. I think we owe it to our Colleagues in this Body to discuss it when most of them are present.

The Presiding Officer [Senator Maceda]. What does the Sponsor say?

Senator Lina. Mr. President, I understand the point raised by Senator Gonzales, but it will not do harm if the Senators, who are present here, are ready to ask any question, without prejudice to closing the period of interpellation.

Senator Gonzales. I do not want to do it, Mr. President, but I am forced by circumstances, I raise the question of quorum.

The Presiding Officer [Senator Maceda]. The Secretary will call the roll.

Senator Guingona. Mr. President, may I ask for a suspension.

The Presiding Officer [Senator Maceda]. The question of quorum has been raised, Mr. Majority Floor Leader.

Senator Guingona. Yes, but with the permission of the movant so that the matter can be threshed out.

The Presiding Officer [Senator Maceda]. Is the Senator who presented the motion willing to...?

Senator Gonzales. Yes, Mr. President, I am withdrawing my motion.

The Presiding Officer [Senator Maceda]. All right. The motion is withdrawn.

SUSPENSION OF THE SESSION

Senator Guingona. May I ask for a suspension, Mr. President.

The Presiding Officer [Senator Maceda]. The session is suspended, if there is no objection. [*There was none.*]

It was 6:34 p.m.

RESUMPTION OF THE SESSION

At 6:36 p.m., the session was resumed.

The Presiding Officer [Senator Maceda]. The session is resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 234

Senator Guingona. Mr. President, in view of the need for further study of this measure by some Members, I move that we suspend consideration of the same.

The Presiding Officer [Senator Maceda]. Is there

any objection?

Senator Lina. I will not object, Mr. President, but let me just also put it into the *Records* that this bill is calendared for today. In fact, it has been in the calendar since yesterday, and that should have forewarned the other Members of the Chamber who are not here that this bill will be discussed; that a question easily on the quorum can be raised, but I will defer to my Colleagues, if that is the decision of the leadership.

The Presiding Officer [Senator Maceda]. All right, the consideration of this bill is suspended.

Senator Guingona. Mr. President, tomorrow we have a long calendar.

We will take up the Baselands Conversion, the bill converting the Philippine Normal College into a State University, Enhancement of Relations between the Philippines and Foreign Entities, the Postal Delivery Corporation, the Veterans Bank, Restitution of Losses of Sugar Planters, Retirement Benefits of Prosecutors and Attorneys, Benefits to the Elderly, Operations of Rural Banks, the bill Creating the Iligan State University of Science and Technology, the bill Allowing Qualified Voters in Ormoc City to Vote in the Province of Leyte, and the Medical Radiation Technology Bill.

SUSPENSION OF THE SESSION

Mr. President, I move that we suspend the sessions until nine o'clock tomorrow morning.

The Presiding Officer [Senator Maceda]. Sessions are suspended until nine o'clock tomorrow morning, if there is no objection. [*There was none.*]

It was 6:39 p.m.



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EXPLANATION OF VOTE OF SENATOR ROMULO

Senator Romulo. Mr. President, we in the Committee on Social Justice consider this Magna Carta for the Disabled Persons as a landmark and major legislation and accomplishment of the Committee.

Therefore, Mr. President, with my vote of *Yes*, may I be allowed to submit a written explanation of my vote on Third Reading.

The Secretary.

EXPLANATION OF VOTE OF SENATOR SAGUISAG

Senator Saguisag. Mr. President, I am proud and happy to vote *Yes* on this bill. I would like to congratulate the illustrious champions of this measure in this Chamber. It is also a fitting tribute to a departed Friend and Colleague Esty Juco, who was the moving spirit behind this measure in the House. When she left ahead of us, the torch was passed on to another good Friend and Colleague, Representative Arturo Borjal.

As I said, Mr. President, I am voting *Yes*, and may I be allowed to file a written supplement to my explanation.

The following is the written Explanation of Vote submitted by Senator Saguisag:

I stand proudly and happily to vote yes on this measure.

It is long overdue. It is a great tribute to its authors, including our departed dear friend and colleague in the House, Estelita Juco, who authored a number of kindred measures in the House.

To those of us who support the Estelita Juco Scholarship Foundation, we are elated to help enact into law this bill that she helped conceive and which, when she fell and left us, was picked up by another dear friend/ill colleague, Rep. Arturo Borjal, and by its illustrious champions in this chamber.

Thank you, Mr. President.

The President. I vote *Yes*, with the reservation to explain my vote.

RESULT OF VOTING

With 20 affirmative votes, no negative vote, and no abstention, Senate Bill No. 1286 is approved on Third Reading.

BILL ON THIRD READING

Senate Bill No. 1209 - Protection Against Child Abuse

Senator Guingona. Mr. President, I move that we vote on Third Reading on Senate Bill No. 1209. Copies of the bill were distributed to all the Members of the Senate on November 25, 1991.

The President. Voting on Third Reading on Senate Bill No. 1209 is now in order.

The Secretary will please read the title of the bill only, if there is no objection. [*There was none.*]

The Secretary. Senate Bill No. 1209, entitled

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE AND EXPLOITATION, PROVIDING LEGAL PRESUMPTIONS AND PENALTIES FOR ITS VIOLATIONS.

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 20

Senator Angara	Senator Mercado*
Senator Aquino	Senator Osmeña
Senator Enrile	Senator Paterno
Senator Estrada	Senator Pimentel
Senator Gonzales	Senator Rasul
Senator Guingona	Senator Romulo
Senator Herrera	Senator Saguisag
Senator Laurel	Senator Salonga

Senator Lina*
Senator Maceda

Senator Tamano
Senator Tañada

assumed as signatory of the United Nations Convention on the Rights of the Child.

NO - 0

ABSTENTION - 0

RESULT OF VOTING

The President. With 20 affirmative votes, no negative vote, and no abstention, Senate Bill No. 1209 is approved on Third Reading.

EXPLANATION OF VOTE OF SENATOR LINA

Senator Lina. Mr. President, I register an affirmative vote, and at the same time, I would like to make a reservation. I would like to submit an extended explanation of my vote.

The following is the written Explanation of Vote submitted by Senator Lina:

In voting for this measure, we keep in mind some thirty (30) million children who are below 18 years of age, of which about 25.3 million are children below fifteen years of age. Of these number, it is estimated that at least one percent (1%) are subject to abuse, exploitation, neglect, and of crimes related to trafficking.

These are the vulnerable and sensitive sectors of our society needing our care and protection so that they will grow to become mature adults who are useful members of the society and potential leaders of our Nation.

This bill which is a consolidation of Senate Bill No. 487, (one of the earlier bills I filed), and Senate Bill No. 727 authored by Senator Mercado with amendments introduced by Senators Rasul, Shahani, Tañada and the members of the Committee on Women and Family Relations, complements the efforts we have initiated towards the implementation of a national comprehensive program for the survival and development of Filipino children, in keeping with the Constitutional mandate that "The State shall defend the right of the children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development" (Article XV, Section 3, par. 2), and also with the duty we

Republic Act No. 6972 (which was approved on November 23, 1990), The Barangay Level Total Development and Protection of Children Act provides the foundation for a network of barangay-level crises intervention and sanctuaries for endangered children up to six years of age who need to be rescued from an unbearable home situation, and RA 7160, The Local Government Code of 1991 (which was approved on November 26, 1991) mandates every barangay, as soon as feasible, to set up such center to serve children up to six years of age. These laws embody the institutional *protective mechanisms* while this present bill provides a *mechanism for strong deterrence* against the commission of abuse and exploitation.

This bill which I co-sponsored supplies the inadequacies of our existing laws treating crimes committed against children, namely, the Revised Penal Code and the Child and Youth Welfare Code, in the light of the present situation. Current empirical data on child abuse indicate that a stronger deterrent is imperative.

Child abuse is now clearly defined and more encompassing as to include "the act of unreasonably depriving a child of basic needs for survival, such as food and shelter or a combination of both or a case of an isolated event where the injury is of a degree that if not immediately remedied could seriously impair the child's growth and development or result in permanent incapacity or death."

With this legislation, child traffickers could be easily prosecuted and penalized. Incestuous abuse and those where victims are under twelve years of age are penalized gravely, ranging from *reclusion temporal* to *reclusion perpetua*, in its maximum period. It also imposes the penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, equivalent to a 14-30 year prison term for those "(a) who promote or facilitate child prostitution; (b) commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution; (c) derive profit or advantage whether as manager or owner of an establishment where the prostitution takes place or of the sauna, disco, bar resort, place of entertainment or establishment serving as a cover or which engages in a prostitution in addition to the activity for which the li-

cense has been issued to said establishment.

Attempt to commit child prostitution and child trafficking, including the act of inducing or coercing a child to perform in obscene publications or indecent shows whether live or in video, are also penalized. And additional penalties are imposed if the offender is a foreigner, a government official or employee.

For the foregoing reasons, I vote *Yes*, and I believe that as an elected legislator, this is one of the best legacies that I can leave to our children and youth.

EXPLANATION OF VOTE OF SENATOR MERCADO

Senator Mercado. Mr. President, I vote in the affirmative.

BILL ON THIRD READING House Bill No. 31178 - Restitution of Losses of Sugar Planters

Senator Guingona. Mr. President, I move that we vote on Third Reading on House Bill No. 31178. Copies of the bill were distributed to all the Members of the Senate on November 25, 1991.

The President. Voting on Third Reading on House Bill No. 31178 is now in order.

The Secretary will please read the title of the bill only, if there is no objection. [*There was none.*]

The Secretary. House Bill No. 31178, entitled

AN ACT AUTHORIZING THE RESTITUTION OF LOSSES SUFFERED BY SUGAR PRODUCERS FROM CROP YEAR 1974-75 AND CROP YEAR 1984-85 DUE TO THE ACTIONS OF GOVERNMENT-OWNED AND CONTROLLED AGENCIES.

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

*With explanation of vote

YES - 18

Senator Angara	Senator Maceda*
Senator Aquino	Senator Mercado
Senator Enrile	Senator Osmeña*
Senator Estrada	Senator Paterno
Senator Gonzales	Senator Pimentel
Senator Guingona	Senator Rasul
Senator Herrera	Senator Romulo*
Senator Laurel	Senator Tamano
Senator Lina	Senator Tañada

NO - 1

Senator Saguisag*

ABSTENTION - 1

Senator Salonga

RESULT OF VOTING

The President. With 18 affirmative votes, one negative vote, and one abstention, House Bill No. 31178 is approved on Third Reading.

EXPLANATION OF VOTE OF SENATOR MACEDA

Senator Maceda. Mr. President, we take note of the special effort that has been made in behalf of this bill by Congressman Romeo Guanzon of Bacolod City. This bill is really a bill of fairness and fair play to restore to the sugar industry what has been stolen from them during the many years of the Marcos Administration, which involved the participation of cronies identified with that area, and who I need not name today.

This bill will give a chance to the sugar industry to really breathe a little easier and to be able to implement the so many programs of research, development, marketing, and the like, that must still be fully attended to if this industry is to continue to be one of the integral and important parts of our economic recovery.

Mr. President, may I vote *Yes* on this measure, with the hope that, finally, with the insurgency problem raging very much in Negros Occidental and other sugar areas, somehow this will be a turning point in the fight to restore peace and order and stability to the sugar regions.

The consolidated measure is a much-awaited bill on special protection of children against child abuse, exploitation and discrimination. The policy reinforces the constitutional mandate to protect the most vulnerable sector of our population — children below 18 years of age — and declares as implementing strategies for protection the following services: sanctions or penalty, crisis intervention and custodial care.

The State shall, through this Act, intervene when abuse is committed by the parent or guardian or the very person who should take care of the children by natural or statute law. However, children shall be protected and rehabilitated should they be threatened or endangered by circumstances inimical to their survival and normal development.

These circumstances, Mr. President, include but are not limited to, armed conflict, hazardous conditions of work, living-in or fending for themselves in streets, being a member of an indigenous cultural community and/or living in conditions of extreme poverty, being a victim of a man-made or natural disaster or calamity or analogous circumstances which endanger the child.

The bill not only enumerates what the children should be protected against, but also provides for a comprehensive program of services and facilities. The children of our nation will be provided protection against prostitution and sexual abuse, child trafficking, obscene publications and indecent shows, other acts of abuse under situations which endanger the child's life, safety and normal development.

The program will also provide for services and protective strategies for working children, children of indigenous cultural communities and children in situations of armed conflict.

Remedial strategies include those who may file a complaint of child-abuse cases, protective custody of victims, and hearings in court designated as Juvenile and Domestic Relations Court.

Penal provisions in the Senate bill have been retained. Rules and regulations, as well as the comprehensive program will be formulated by the Departments of Justice, Social Welfare and Development. Since the rules affect third persons, they shall take effect after publication.

Mr. President, the exact number of children who suffer abuse, exploitation, and discrimination is estimated to be in the thousands. Reported cases constitute only the tip of the iceberg. Many more are endangered every day by adverse circumstances which threaten their survival and normal development. Unless we protect our abused, exploited, and endangered children today, many among the future generation of youth face a bleak tomorrow. Many will not also live to see adulthood because their situations are too adverse for survival.

This consolidated version is an investment in the nation's future. Protect the child of today, and we save the youth who will build our nation for tomorrow and the future leaders of our country.

Mr. President, we earnestly appeal to you and the Members of this august Body to approve this consolidated version of the first-ever bill to provide a policy program and higher penalties to protect our millions of children against abuse, exploitation, and discrimination.

Thank you, Mr. President.

APPROVAL OF CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 1209/HOUSE BILL NO. 6946

The President. Is there any objection? [Silence] The Chair hears none. The Conference Committee Report on the disagreeing provisions of Senate Bill No. 1209 and House Bill No. 6946 is hereby approved.

The following is the full text of the Conference Committee Report:

CONFERENCE COMMITTEE REPORT

The Conference Committee on the disagreeing provisions of Senate Bill No. 1209, entitled

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, PROVIDING PENALTIES THEREFOR, AND FOR OTHER PURPOSES;

House Bill No. 6946, entitled

AN ACT AMENDING ARTICLE 278 OF THE REVISED PENAL CODE TO EXPAND THE SCOPE OF EXPLOITATION OF MINORS;

House Bill No. 29431, entitled

AN ACT TO PROTECT MINORS FROM PEDOPHILES AND/OR SEXUAL EXPLOITATION; and

House Bill No. 35354, entitled

AN ACT INSTITUTING THE PROTECTION AND REHABILITATION OF CHILDREN IN ESPECIALLY DIFFICULT CIRCUMSTANCES, PRESCRIBING PENALTIES FOR VIOLATION THEREOF, AND APPROPRIATING FUNDS

THEREFOR,

having met in full and free conference, has agreed to recommend and hereby recommends to the Senate and the House of Representatives that the consolidation of Senate Bill No. 1209 and House Bill Nos. 6946, 29431 and 35354 be approved in accordance with the attached version as reconciled and approved by the Conferees.

Approved.

**CONFEREES ON THE PART OF
THE SENATE**

(Sgd.) JOSE D. LINA, JR.

(Sgd.) SANTANINA T. RASUL

ORLANDO S. MERCADO

(Sgd.) WIGBERTO E. TAÑADA

JUAN PONCE ENRILE

(Sgd.) ERNESTO M. MACEDA

**CONFEREES ON THE PART OF THE
HOUSE OF REPRESENTATIVES**

(Sgd.) PABLO P. GARCIA

(Sgd.) ISIDRO C. ZARRAGA

DANTE TINGA

CONSUELO P. MSKARIÑO

(Sgd.) CONSUELO PUYAT REYES

Bicameral Conference Committee on Senate Bill No.
1209, House Bill Nos. 6946, 29431 and 35354

(Sgd.) ALIGNATIUS G. LOPEZ

(Sgd.) JOSE LUIS MARTIN C. GASCON

(Sgd.) JOSE CARLOS V. LACSON

SOCORRO O. ACOSTA

ANTONIO M. SERAPIO

AN ACT PROVIDING FOR STRONGER DETERRENCE AND SPECIAL PROTECTION AGAINST CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, PROVIDING PENALTIES FOR ITS VIOLATION, AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

**ARTICLE I
TITLE, POLICY, PRINCIPLES AND DEFINITION
OF TERMS**

SECTION 1. Title. - This Act shall be known as the "Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act."

SEC. 2. Declaration of State Policy and Principles. - It is hereby declared to be the policy of the State to provide special protection to children from all forms of abuse, neglect, cruelty, exploitation and discrimination, and other conditions prejudicial to their development; provide sanctions for their commission and carry out a program for prevention and deterrence of and crisis intervention in situations of child abuse, exploitation and discrimination. The State shall intervene on behalf of the child when the parent, guardian, teacher or person having care or custody of the child fails, or is unable to protect the child against abuse, exploitation and discrimination or when such acts against the child are committed by the said parent, guardian, teacher or person having care and custody of the same.

It shall be the policy of the State to protect and rehabilitate children gravely threatened or endangered by circumstances which affect or will affect their survival and normal development and over which they have no control.

The best interests of children shall be the paramount consideration in all actions concerning them, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities, and legislative bodies, consistent with the principle of First Call for Children as enunciated in the United Nations Convention on the Rights of the Child. Every effort shall be exerted to promote the welfare of children and enhance their opportunities for a useful and happy life.

SEC. 3. Definition of Terms:

a) Children - refers to persons below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

b) Child abuse - refers to the maltreatment, whether habitual or not, of the child which includes any of the following:

- 1) psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- 2) any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;

- 3) unreasonable deprivation of his basic needs for survival, such as food and shelter; and
 - 4) failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death.
- c) Circumstances which gravely threaten or endanger the survival and normal development of children. - include, but are not limited to, the following:

- 1) Being in a community where there is armed conflict or being affected by armed conflict-related activities;
 - 2) Working under conditions hazardous to life, safety and morals which unduly interfere with their normal development;
 - 3) Living in or fending for themselves in the streets or urban or rural areas without the care of parents or a guardian or any adult supervision needed for their welfare;
 - 4) Being a member of an indigenous cultural community and/or living under conditions of extreme poverty or in an area which is underdeveloped and/or lacks or has inadequate access to basic services needed for a good quality of life;
 - 5) Being a victim of a man-made or natural disaster or calamity; or
 - 6) Circumstances analogous to those abovestated which endanger the life, safety or normal development of children.
- d) Comprehensive Program Against Child Abuse, Exploitation and Discrimination. - refers to the coordinated program of services and facilities to protect children against:

- 1) child prostitution and other sexual abuse;
- 2) child trafficking;
- 3) obscene publications and indecent shows;
- 4) other acts of abuse; and
- 5) circumstances which threaten or endanger the survival and normal development of children.

**ARTICLE II
PROGRAM ON CHILD ABUSE, EXPLOITATION
AND DISCRIMINATION**

SEC. 4. The Formulation of the Program. - There shall be a comprehensive program to be formulated by the Department of Justice and the Department of Social Welfare and Development in coordination with other government agencies and private sector concerned, within one (1) year from the effectivity of this Act to protect children against child prostitution and other sexual abuse; child trafficking; obscene publications and indecent shows; other acts of abuse; and circumstances which endanger child survival and normal development.

**ARTICLE III
CHILD PROSTITUTION AND OTHER SEXUAL ABUSE**

SEC. 5. Child Prostitution and Other Sexual Abuse. - Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

The penalty of reclusion temporal in its medium period to reclusion perpetua shall be imposed upon the following:

a) Those who engage in or promote, facilitate or induce child prostitution which include, but are not limited to the following:

- 1) Acting as a procurer of a child prostitute;
- 2) Inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means;
- 3) Taking advantage of influence or relationship to procure a child as a prostitute;
- 4) Threatening or using violence towards a child to engage him as a prostitute; or
- 5) Giving monetary consideration, goods or other pecuniary benefit to a child with the intent to engage such child in prostitution.

b) Those who commit the act of sexual intercourse or lascivious conduct with a child exploited in prostitution or subjected to other sexual abuse: *Provided*, That when the victim is under twelve (12) years of age, the perpetrators shall be prosecuted under Article 335, paragraph 3, for rape and Article 336 of Act No. 3815, as amended, the Revised Penal Code, for rape or lascivious conduct, as the case may be: *Provided*, That the penalty for lascivious conduct when the victim is under twelve (12) years of age shall be reclusion temporal in its medium period.

c) Those who derive profit or advantage therefrom, whether as manager or owner of the establishment where the

prostitution takes place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment.

SEC. 6. Attempt to Commit Child Prostitution. - There is an attempt to commit child prostitution under Section 5, paragraph (a) hereof, when any person who, not being a relative of a child is found alone with the said child inside the room or cubicle of a house, an inn, hotel, motel, pension house, apartelle or other similar establishments, vessel, vehicle or any other hidden or secluded area under circumstances which would lead a reasonable person to believe that the child is about to be exploited in prostitution and other sexual abuse.

There is also an attempt to commit child prostitution, under paragraph (b) of Section 5 hereof, when any person is receiving services from a child in a sauna parlor or bath, massage clinic, health club and other similar establishments. A penalty lower by two (2) degrees than that prescribed for the consummated felony under Section 5 hereof, shall be imposed upon the principals of the attempt to commit the crime of child prostitution under this Act, or, in the proper case, under the Revised Penal Code.

ARTICLE IV CHILD TRAFFICKING

SEC. 7. Child Trafficking. - Any person who shall engage in trading and dealing with children, including, but not limited to, the act of buying and selling of a child for money, or for any other consideration, or barter, shall suffer the penalty of reclusion temporal to reclusion perpetua. The penalty shall be imposed in its maximum period when the victim is under twelve (12) years of age.

SEC. 8. Attempt to Commit Child Trafficking. - There is an attempt to commit child trafficking under Section 7 of this Act:

1) when a child travels alone to a foreign country without valid reason therefor and without clearance issued by the Department of Social Welfare and Development or written permit or justification from the child's parents or legal guardian;

2) when a pregnant mother executes an affidavit of consent for adoption for a consideration;

3) when a person, agency, establishment or child-caring institution recruits women or couples to bear children for the purpose of child trafficking;

4) when a doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person simulates birth for the purpose of child trafficking; or

5) when a person engages in the act of finding children among low income families, hospitals, clinics, nurseries, day care centers, or other child-caring institutions who can be offered for the purpose of child trafficking.

A penalty lower by two (2) degrees than that prescribed for the consummated felony under Section 7 hereof, shall be imposed upon the principals of the attempt to commit child trafficking under this Act.

ARTICLE V OBSCENE PUBLICATIONS AND INDECENT SHOWS

SEC. 9. Obscene Publications and Indecent Shows. - Any person who shall hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, whether live or in video, pose, or model in obscene publications or pornographic materials or to sell or distribute the said materials shall suffer the penalty of *prision mayor* in its medium period.

If the child used as a performer, subject or seller/distributor is below twelve (12) years of age, the penalty shall be imposed in its maximum period.

Any ascendant, guardian, or person entrusted in any capacity with the care of a child who shall cause and/or allow such child to be employed or to participate in an obscene play, scene, act, movie or show or in any other act covered by this Section shall suffer the penalty of *prision mayor* in its medium period.

ARTICLE VI OTHER ACTS OF ABUSE

SEC. 10. Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the Child's Development. -

a) Any person who shall commit any other act of child abuse, cruelty or exploitation or be responsible for other conditions prejudicial to the child's development including those covered by Article 59 of Presidential Decree No. 603, as amended, but not covered by the Revised Penal Code, as amended, shall suffer the penalty of *prision mayor* in its minimum period.

b) Any person who shall keep or have in his company a minor, twelve (12) years or under or who is ten (10) years or more his junior in any public or private place, hotel, motel, beer joint, discotheque, cabaret, pension house, sauna or massage parlor, beach and/or other tourist resort or similar places shall suffer the penalty of *prision mayor* in its maximum period and a fine of not less than fifty thousand pesos (P50,000.00): *Provided*, That this provision shall not apply to any person who is related within the fourth degree of consanguinity or affinity or any bond recognized by law,

local custom and tradition, or acts in the performance of a social, moral or legal duty.

c) Any person who shall induce, deliver or offer a minor to any one prohibited by this Act to keep or have in his company a minor as provided in the preceding paragraph shall suffer the penalty of *prision mayor* in its medium period and a fine of not less than forty thousand pesos (P40,000.00): *Provided, however*, That should the perpetrator be an ascendant, stepparent or guardian of the minor, the penalty to be imposed shall be *prision mayor* in its maximum period, a fine of not less than Fifty thousand pesos (P50,000.00), and the loss of parental authority over the minor.

d) Any person, owner, manager or one entrusted with the operation of any public or private place of accommodation, whether for occupancy, food, drink or otherwise, including residential places, who allows any person to take along with him to such place or places any minor herein described shall be imposed a penalty of *prision mayor* in its medium period and a fine of not less than Fifty thousand pesos (P50,000.00) and the loss of the license to operate such a place or establishment.

e) Any person who shall use, coerce, force or intimidate a street child or any other child to: (i) beg or use begging as a means of living; (ii) act as conduit or middlemen in drug trafficking or pushing; or (iii) conduct any illegal activities, shall suffer the penalty of *prision correccional* in its medium period to *reclusion perpetua*.

For purposes of this Act, the penalty for the commission of acts punishable under Articles 248, 249, 262, paragraph 2, and 263, paragraph 1 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of murder, homicide, other intentional mutilation, and serious physical injuries, respectively, shall be *reclusion perpetua* when the victim is under twelve (12) years of age. The penalty for the commission of acts punishable under Articles 337, 339, 340 and 341 of Act No. 3815, as amended, the Revised Penal Code, for the crimes of qualified seduction, acts of lasciviousness with the consent of the offended party, corruption of minors, and white slave trade, respectively, shall be one (1) degree higher than that imposed by law when the victim is under twelve (12) years of age.

The victim of the acts committed under this Section shall be entrusted to the care of the Department of Social Welfare and Development.

ARTICLE VII SANCTIONS FOR ESTABLISHMENTS OR ENTERPRISES

SEC. 11. *Sanctions for Establishments or Enterprises which Promote, Facilitate, or Conduct Activities Constituting Child Prostitution and other Sexual Abuse, Child Trafficking, Obscene Publications and Indecent Shows, and other Acts of*

Abuse. - All establishments and enterprises which promote or facilitate child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows, and other acts of abuse shall be immediately closed and their authority or license to operate cancelled, without prejudice to the owner or manager thereof being prosecuted under this Act and/or the Revised Penal Code, as amended, or special laws. A sign with the words "off limits" shall be conspicuously displayed outside the establishments or enterprises by the Department of Social Welfare and Development for such period which shall not be less than one (1) year, as the Department may determine. The unauthorized removal of such sign shall be punishable by *prision correccional*.

An establishment shall be deemed to promote or facilitate child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows, and other acts of abuse, if the acts constituting the same occur in the premises of said establishment under this Act or in violation of the Revised Penal Code, as amended. An enterprise such as a sauna, travel agency, or recruitment agency which: promotes the aforementioned acts as part of a tour for foreign tourists; exhibits children in a lewd or indecent show; provides child masseurs for adults of the same or opposite sex and said services include any lascivious conduct with the customer; or solicits children for activities constituting the aforementioned acts shall be deemed to have committed the acts penalized herein.

ARTICLE VIII WORKING CHILDREN

SEC. 12. *Employment of Children.* - Children below fifteen (15) years of age may be employed: *Provided*, That, the following minimum requirements are present:

a) The employer shall secure for the child a work permit from the Department of Labor and Employment;

b) The employer shall ensure the protection, health, safety and morals of the child;

c) The employer shall institute measures to prevent exploitation or discrimination taking into account the system and level of remuneration, and the duration and arrangement of working time; and

d) The employer shall formulate and implement a continuous program for training and skill acquisition of the child.

The Department of Labor and Employment shall promulgate rules and regulations necessary for the effective implementation of this Section.

SEC. 13. *Nonformal Education for Working Children.* - The Department of Education, Culture and Sports shall promulgate a course design under its nonformal education

program aimed at promoting the intellectual, moral and vocational efficiency of working children who have not undergone or finished elementary or secondary education. Such course design shall integrate the learning process deemed most effective under given circumstances.

SEC. 14. Prohibition on the Employment of Children in Certain Advertisements. - No person shall employ child models in all commercials or advertisements promoting alcoholic beverages, intoxicating drinks, tobacco and its by-products, and violence.

SEC. 15. Duty of Employer. - Every employer shall comply with the duties provided for in Articles 108 and 109 of Presidential Decree No. 603.

SEC. 16. Penalties. - Any person who shall violate any provision of this Article shall suffer the penalty of a fine of not less than One thousand (P1,000.00) but not more than Ten thousand pesos (P10,000.00) or imprisonment of not less than three (3) months but not more than three (3) years, or both at the discretion of the court: *Provided*, That, in case of repeated violations of the provisions of this Article, the offender's license to operate shall be revoked.

ARTICLE IX CHILDREN OF INDIGENOUS CULTURAL COMMUNITIES

SEC. 17. Survival, Protection and Development. - In addition to the rights guaranteed to children under this Act and other existing laws, children of indigenous cultural communities shall be entitled to protection, survival and development consistent with the customs and traditions of their respective communities.

SEC. 18. System of and Access to Education. - The Department of Education, Culture and Sports shall develop and institute an alternative system of education for children of indigenous cultural communities which is culture specific and relevant to the needs and the existing situation in their communities. The Department of Education, Culture and Sports shall also accredit and support nonformal but functional indigenous educational programs conducted by non-governmental organizations in said communities.

SEC. 19. Health and Nutrition. - The delivery of basic social services in health and nutrition to children of indigenous cultural communities shall be given priority by all government agencies concerned. Hospitals and other health institutions shall ensure that children of indigenous cultural communities are given equal attention. In the provision of health and nutrition services to children of indigenous cultural communities, indigenous health practices shall be respected and recognized.

SEC. 20. Discrimination. - Children of indigenous cultural communities shall not be subjected to any and all forms of discrimination.

Any person who discriminates against children of indigenous cultural communities shall suffer a penalty of *arresto mayor* in its maximum period and a fine of not less than Five thousand pesos (P5,000.00) nor more than Ten thousand pesos (P10,000.00).

SEC. 21. Participation. - Indigenous cultural communities, through their duly-designated or appointed representatives shall be involved in planning, decision making, implementation, and evaluation of all government programs affecting children of indigenous cultural communities. Indigenous institutions shall also be recognized and respected.

ARTICLE X CHILDREN IN SITUATIONS OF ARMED CONFLICT

SEC. 22. Children as Zones of Peace. - Children are hereby declared as Zone of Peace. It shall be the responsibility of the State and all other sectors concerned to resolve armed conflicts in order to promote the goal of children as zones of peace. To attain this objective, the following policies shall be observed:

a) Children shall not be the object of attack and shall be entitled to special respect. They shall be protected from any form of threat, assault, torture or other cruel, inhuman or degrading treatment;

b) Children shall not be recruited to become members of the Armed Forces of the Philippines or its civilian units or other armed groups, nor allowed to take part in the fighting, or used as guides, couriers, or spies;

c) Delivery of basic social services such as education, primary health and emergency relief services shall be kept unhampered;

d) The safety and protection of those who provide services including those involved in fact-finding missions from both government and non-government institutions shall be ensured. They shall not be subjected to undue harassment in the performance of their work;

e) Public infrastructures such as schools, hospitals and rural health units shall not be utilized for military purposes such as command posts, barracks, detachments, and supply depots; and

f) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated due to armed conflict.

SEC. 23. Evacuation of Children During Armed Conflict. - Children shall be given priority during evacuation as a result of armed conflict. Existing community organizations shall be tapped to look after the safety and well-being of children during evacuation operations. Measures shall be taken to ensure that children evacuated are accompanied by persons responsible for their safety and well-being.

SEC. 24. Family Life and Temporary Shelter. - Whenever possible, members of the same family shall be housed in the same premises and given separate accommodation from other evacuees, and provided with facilities to lead a normal family life. In places of temporary shelter, expectant and nursing mothers and children shall be given additional food in proportion to their physiological needs. Whenever feasible, children shall be given opportunities for physical exercise, sports and outdoor games.

SEC. 25. Rights of Children Arrested for Reasons Related to Armed Conflict. - Any child who has been arrested for reasons related to armed conflict, either as combatant, courier, guide or spy is entitled to the following rights:

- a) Separate detention from adults except where families are accommodated as family units;
- b) Immediate free legal assistance;
- c) Immediate notice of such arrest to the parents or guardian of the child;
- d) Release of the child on recognizance, within twenty-four (24) hours to the custody of the Department of Social Welfare and Development or any responsible member of the community as determined by the court.

If after hearing the evidence in the proper proceedings, the court should find that the aforesaid child has committed the acts charged against him, the court shall determine the imposable penalty, including any civil liability chargeable against him. However, instead of pronouncing judgment of conviction, the court shall suspend all further proceedings and shall commit such child to the custody or care of the Department of Social Welfare and Development or to any training institution operated by the government, or duly licensed agencies or any other responsible person, until he has had reached eighteen (18) years of age or, for a shorter period as the court may deem proper, after considering the reports and recommendations of the Department of Social Welfare and Development or the agency or responsible individual under whose care he has been committed.

The aforesaid child shall be subject to visitation and supervision by a representative of the Department of Social Welfare and Development or any duly-licensed agency or such other officer as the court may designate subject to such conditions as it may prescribe.

The aforesaid child whose sentence is suspended can appeal from the order of the court in the same manner as appeals in criminal cases.

SEC. 26. Monitoring and Reporting of Children in Situations of Armed Conflict. - The chairman of the barangay affected by the armed conflict shall submit the names of children residing in said barangay to the municipal Social

Welfare and Development officer within twenty-four (24) hours from the occurrence of the armed conflict.

ARTICLE XI REMEDIAL PROCEDURES

SEC. 27. Who May File a Complaint. - Complaints on cases of unlawful acts committed against children as enumerated herein may be filed by the following:

- a. offended party;
- b. parents or guardians;
- c. ascendant or collateral relative within the third degree of consanguinity;
- d. officer, social worker or representatives of a licensed child-caring institution;
- e. officer or social worker of the Department of Social Welfare and Development;
- f. barangay chairman; or
- g. at least three (3) concerned, responsible citizens where the violation occurred.

SEC. 28. Protective Custody of the Child. - The offended party shall be immediately placed under the protective custody of the Department of Social Welfare and Development pursuant to Executive Order No. 56 series of 1986. In the regular performance of this function, the officer of the Department of Social Welfare and Development shall be free from any administrative, civil or criminal liability. Custody proceedings shall be in accordance with the provisions of Presidential Decree No. 603.

SEC. 29. Confidentiality. - At the instance of the offended party, his name may be withheld from the public until the court acquires jurisdiction over the case.

It shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio broadcasting, producer and director of the film in case of the movie industry, to cause undue and sensationalized publicity of any case of violation of this Act which results in the moral degradation and suffering of the offended party.

SEC. 30. Special Court Proceedings. - Cases involving violations of this Act shall be heard in the chambers of the judge of the Regional Trial Court duly designated as Juvenile and Domestic Relations Court.

Any provision of existing law to the contrary notwithstanding and with the exception of *habeas corpus*, election cases, and cases involving detention prisoners and

persons covered by Republic Act No. 4908, all courts shall give preference to the hearing or disposition of cases involving violations of this Act.

ARTICLE XII
COMMON PENAL PROVISIONS

SEC. 31. *Common Penal Provisions.* -

a) The penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act;

b) When the offender is a corporation, partnership or association, the officer or employee thereof who is responsible for the violation of this Act shall suffer the penalty imposed in its maximum period;

c) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant, parent, guardian, stepparent or collateral relative within the second degree of consanguinity or affinity, or a manager or owner of an establishment which has no license to operate or its license has expired or has been revoked;

d) When the offender is a foreigner, he shall be deported immediately after service of sentence and forever barred from entry to the country;

e) The penalty provided for in this Act shall be imposed in its maximum period if the offender is a public officer or employee: *Provided, however,* That if the penalty imposed is *reclusion perpetua* or *reclusion temporal*, then the penalty of perpetual or temporary absolute disqualification shall also be imposed; *Provided, finally,* That if the penalty imposed is *prision correccional* or *arresto mayor*, the penalty of suspension shall also be imposed; and

f) A fine to be determined by the court shall be imposed and administered as a cash fund by the Department of Social Welfare and Development and disbursed for the rehabilitation of each child victim, or any immediate member of his family if the latter is the perpetrator of the offense.

ARTICLE XIII
FINAL PROVISIONS

SEC. 32. *Rules and Regulations.* - Unless otherwise provided in this Act, the Department of Justice in coordination with the Department of Social Welfare and Development, shall promulgate rules and regulations for the effective implementation of this Act.

Such rules and regulations shall take effect upon their publication in two (2) national newspapers of general circulation.

SEC. 33. *Appropriations.* - The amount necessary to carry out the provisions of this Act is hereby authorized to be

appropriated in the General Appropriations Act of the year following its enactment into law and thereafter.

SEC. 34. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the remaining provisions not affected thereby shall continue in full force and effect.

SEC. 35. *Repealing Clause.* - All laws, decrees, or rules inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 36. *Effectivity Clause.* - This Act shall take effect upon completion of its publication in at least two (2) national newspapers of general circulation.

CONFERENCE COMMITTEE REPORT
ON HOUSE BILL NO. 34211
(Donor's and Transfer Tax Bill)

Senator Romulo. Mr. President, to present the Conference Committee Report on the disagreeing provisions of House Bill No. 34211, House and Senate versions regarding estate and donor's taxes, I ask that Senator Tamano be recognized.

The President. Senator Tamano is recognized.

SPONSORSHIP SPEECH OF SENATOR TAMANO

Senator Tamano. Thank you, Mr. President. The Conference Committee on the disagreeing provisions of House Bill No. 34211, entitled

AN ACT RESTRUCTURING ESTATE AND
DONOR'S TAXES, AMENDING FOR THE
PURPOSE SECTIONS 77, 79(a), 83(b), AND 92(a)
AND (b) ON TRANSFER TAXES OF THE
NATIONAL INTERNAL REVENUE CODE, AS
AMENDED,

after having met and fully discussed the subject matter in the Conference, has come to an agreement.

The Conference Committee recommends that House Bill No. 34211 be approved in accordance with the attached copy of the bill which was furnished to all the Members of the Senate.

The concerns now of Senator Maceda in this bill, as well as Senators Paterno, Guingona, and Enrile, have been addressed, and the House panel agreed to accept the Senate version in this respect.

I therefore ask for its approval, Mr. President.