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REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE
Pasay City

COMMITTEE ON JUSTICE AND HUMAN RIGHTS

DATE : Thursday, February 21, 2002
TIME : 1:30 P.M.
VENUE : Sen. Lorenzo M. Tañada Room
2nd Floor, Senate of the Philippines
Financial Center, Roxas Blvd., Pasay City
AGENDA : S.B. Nos. 64; 100; 187; 853; 903; 1340; 1354
(DUAL CITIZENSHIP)

ATTENDANCE

MEMBERS PRESENT:

Hon. Francis N. Pangilinan - Chairman
Hon. Joker P. Arroyo
Hon. Franklin M. Drilon
Hon. John H. Osmeña

MEMBERS REPRESENTED:

Hon. Rodolfo G. Biazon - Francis Galina
Ronald P. Rodriguez
Hon. Manuel B. Villar, Jr. - Bong Ruado
Hon. Loren Legarda Leviste - Jane Solomon
Hon. Blas F. Ople - Mr. Filbert C.F. Flores III
Hon. Teresita Aquino-Oreta - Mr. Roland Cruz
Hon. Renato "Compañero" Cayetano - Ms. Abigail Sotto
Hon. Aquilino Q. Pimentel, Jr. - Mr. Ed Tamondong
Hon. Noli "Kabayan" de Castro - Mr. Butch Andres

SENATORS STAFF:

Ms. Rusier Nolasco - Office of Sen. Pangilinan
Ms. Araceli Habaradas - Office of Sen. Pangilinan
Mr. Alfred Jamora - Office of Sen. J. Osmeña
Mr. Edward Sison - Office of Sen. J. Osmeña

Mr. Veo Gutierrez	- Office of Sen. Drilon
Mr. Rino Cabarios	- Office of Sen. Drilon
Mr. Luis Lorenzana, Jr.	- Office of Sen. J. Osmeña
Mr. Mike Lumanog	- Office of Sen. J. Osmeña
Mr. Jojo Dizon	- Office of Sen. Pangilinan

GUESTS/RESOURCE PERSONS:

Mr. Ricardo V. Paras III	- Asst. Secretary for Leg. Affairs Dept. of Justice
Mr. Pastor J. Benavidez	- DOJ
Mr. Reynaldo V. Ola-a	- National Security Council
Ms. Marison Gines	- Dept. of Trade and Industry
Mr. Ronaldo Ledesma	- Bureau of Immigration
Mr. Benjamin Kalaw	- BI
Mr. Antonio Carolino	- BI
Mr. Artel Caronongan	- BI
Mr. Teofilo Pilando, Jr.	- Integrated Bar of the Phils.
Mr. Merlin Magallona	- Undersecretary, Dept. of Foreign Affairs

SECRETARIAT:

Ms. Assumption Ingrid B. Reyes	- Committee Secretary
Ms. Gina Dellomes	- Committee Clerk
Ms. Sonia N. Tupaz	- Committee Stenographer
Ms. Carolina F. Driz	- Committee Stenographer
Ms. Bathaluman H. Gonzales	- Committee Stenographer
Ms. Jesusa S. Solidum	- Committee Stenographer
Mr. Rommel Alger	- Committee Stenographer
Ms. Milagros H. Santos	- Committee Stenographer
Mr. Jaime Sarmiento	- Page
Mr. Hizar B. Sarmiento	- Audio Tech.
Mr. E.C. Ardiente	- OSAA Security
Mr. M. Gotinga	- OSAA Security
Mr. Jimmy R. Gaviola	- LCSS "A" Clerk
Mr. Ronnie Cabañero	- Page

(Pls. see attached attendance sheet for complete listing)

**At 1:51 A.M., HON. FRANCIS N. PANGILINAN,
CHAIRMAN OF THE COMMITTEE ON JUSTICE AND
HUMAN RIGHTS, CALLED THE HEARING TO ORDER.**

THE CHAIRMAN (SEN. PANGILINAN). This Committee hearing of the Committee on Justice and Human Rights of the Senate is hereby called to order. The Chair declares the presence of a quorum. We have with us Senator Joker Arroyo. This is the second hearing of this Committee on the following bills.

May we request Atty. Nolasco. Can you please read into the record the following bills?

MS. NOLASCO.

Senate Bill No. 64 –

**“AN ACT ALLOWING NATURAL-BORN CITIZENS OF
THE PHILIPPINES WHO HAVE LOST THEIR CITIZENSHIP
TO RETAIN CERTAIN RIGHTS AND PRIVILEGES RESERVED
FOR FILIPINO CITIZENS”** introduced by Senator Juan M. Flavier;

Senate Bill No. 100 –

**“AN ACT PROHIBITING DUAL CITIZENSHIP, PROVIDING
PENALTIES THEREFOR, AND FOR OTHER PURPOSES”**
Introduced by Senator Juan M. Flavier;

Senate Bill No. 187 –

**“AN ACT GRANTING INDEFINITE NON-IMMIGRANT
VISAS TO FORMER NATURAL-BORN CITIZENS OF THE
PHILIPPINES, THEIR SPOUSES AND DESCENDANTS”**
introduced by Senator Sergio Osmeña III;

Senate Bill No. 853 –

“AN ACT ALLOWING NATURAL-BORN CITIZENS OF THE



PHILIPPINES WHO HAVE LOST THEIR CITIZENSHIP TO RETAIN CERTAIN RIGHTS AND PRIVILEGES, SUBJECT TO CERTAIN CONSTITUTIONAL LIMITATIONS AND FOR OTHER PURPOSES” introduced by Senator Aquilino Q. Pimentel, Jr.;

Senate Bill No. 903 –

“AN ACT AMENDING THE FIRST PARAGRAPH OF SECTION 15 OF COMMONWEALTH ACT NUMBERED FOUR HUNDRED SEVENTY-THREE BY PROVIDING FOR THE ACQUISITION OF PHILIPPINE CITIZENSHIP FOR AN ALIEN MARRIED TO ANY PERSON WHO IS A CITIZEN OF THE PHILIPPINES” introduced by Senator Robert Z. Barbers;

Senate Bill No. 1340 –

“AN ACT TO AMEND SECTION ONE AND TWO OF COMMONWEALTH ACT NUMBERED SIXTY-THREE ENTITLED “AN ACT PROVIDING FOR WAYS IN WHICH PHILIPPINE CITIZENSHIP MAY BE LOST OR ACQUIRED” AS AMENDED BY REPUBLIC ACT NUMBER ONE HUNDRED SIX” introduced by Senator Loren Legarda-Leviste; and

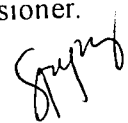
Senate Bill No. 1354 –

“AN ACT PROVIDING FOR THE RETENTION OF CITIZENSHIP BY PHILIPPINE CITIZENS WHO ACQUIRE FOREIGN CITIZENSHIP, AMENDING FOR THE PURPOSE COMMONWEALTH ACT NO. 63, AS AMENDED, AND FOR OTHER PURPOSES” introduced by Senator Franklin M. Drilon.

THE CHAIRMAN. Thank you.

We would like to acknowledge the presence of our resource persons.

We begin with the Commissioner of the Bureau of Immigration, Commissioner Domingo. She has with her the legal officer of the Bureau of Immigration, Atty. Carolino; Acting Chief, Legal Division, Atty. Kalaw; Executive Chairman, Board of Special Inquiry, Atty. Ledesma; Atty. Caronongan of the – well, Deputy Commissioner.



We also have with us from the Department of Justice Assistant Secretary Ricardo Paras III. And also from the Department of Justice, Atty. Pastor Benavides.

From the DTI, Atty. Marison Gines. From the National Security Council Atty. Reynaldo Ola-a. And the President of the Integrated Bar of the Philippines, Atty. Teofilo Pilando.

Good afternoon, ladies and gentlemen. We will begin. We will proceed by having each of the agencies present their position paper and then we can go through with the questions. Maybe we can begin with the Department of Justice. And then...

So, Secretary Paras.

MR. PARAS. Thank you, Mr. Chairman, Senator Pangilinan, Senator Arroyo.

Your Honors, the position paper of the department is still being drafted precisely because we would like to harmonize these bills with the constitutional provisions. I discussed this with Secretary Perez and he would like to have a deeper study on it. But initially in the House we submitted a position paper which supported the bills which would allow natural-born citizen who have lost their citizenship to retain certain rights and privileges reserved for Filipinos subject to the limitations and restrictions provided under the Constitution such as the right to vote, the right to hold public office, the right to own mass media.

In our position paper in the House, we express reservation on the bill which would grant dual citizenship on the ground that this will involve dual allegiance. The Constitution provides that dual allegiance of citizenship is inimical to the national interest and shall be dealt with by law.



There is also another provision, Your Honor, with regard accountability of public officers. Section 18 of Article XI of the Constitution provides, "Public officers and employees owe the state and the Constitution allegiance at all times. And any public officer or employee who seek to change his citizenship or acquire the status of an immigrant of another country during his tenure, shall be dealt with by law."

THE CHAIRMAN. Before we proceed, we acknowledge the presence of the Committee of Finance Chairman Senator John Osmeña.

MR. PARAS. A third provision, Your Honor, which might run counter to this would be Section 4 of Article II which is Declaration of Principles and State Policies, which read, "The prime duty of the government is to serve and protect the people. The government may call upon the people to defend the state and in the fulfillment thereof all citizens may be required, under conditions provided by law, to render personal, military and civil service."

Now, if they are dual citizens, they might just use this to circumvent their duty to render military service or civil service to the government of the Republic of the Philippines. However, I notice, Your Honor, that all these provisions are really -- are subject to enactment by law. None of these provisions have been touched by the law, Your Honor. So, as Father Bernas would say, it is all left to Congress to deal -- to determine how to deal and implement all these policies provided for by law.

So, Your Honor, that is our predicament. We would like to harmonize all these laws. But at present if there is one bill which can be used and which is constitutional it



is that bill which allows certain – the retention of certain rights and privileges subject to the limitations and restrictions provided for by the Constitution.

Thank you, Your Honor.

THE CHAIRMAN. Are you saying that the grant of dual citizenship may run afoul with respect to certain constitutional provisions but the grant of certain rights without actually acquiring dual citizenship may be, well, will not run afoul with certain constitutional provisions.

MR. PARAS. Yes, Your Honor. You are right. And there is a list anyway. The DTI is here. There is a negative foreign list of investments or activities. And we can just look into the list what are those rights and privileges which are reserved to Filipinos by law. If it is only by law, then we can extend it to former natural-born Filipinos. But if runs counter to the Constitution such as the right to vote, the right to hold public office, then we cannot extend it to them, Your Honor.

THE CHAIRMAN. Because you are looking here at political rights that a citizen may enjoy. But you also have economic rights that also are reserved only for citizens.

MR. PARAS. Yes, Your Honor.

THE CHAIRMAN. And in the last hearing, there were certain issues about precisely because you have a lot of Filipino natural – former, well, Filipinos born here, I mean, natural-born Filipinos.../snt



THE CHAIRMAN. ... natural-born Filipinos who lost their citizenship, who have made it good abroad, who have been able to acquire a certain measure of stature and wealth would like to invest in the Philippines but precisely, because they are not citizens, they are prohibited from doing so. So these are some of the issues that we would like to thresh out. Maybe we can proceed with the -- unless there are questions.

SEN. ARROYO. Mr. Chairman.

THE CHAIRMAN. Yes, Senator Arroyo.

SEN. ARROYO. Usec Paras, I would suppose that the bill that you would present or rather the memorandum that you would present to the Senate would be identical to the memorandum that you'll send to the House.

MR. PARAS. Yes, Your Honor, as a matter of fact the legal staff advised me that they will pattern it after what was presented in the House.

SEN. ARROYO. You cannot do otherwise. Otherwise, you'll have to -- you cannot present one memo there and another memo here.

Now, I gather from your statement that -- what then, tentatively, what does the Department of

Justice contemplate on? Would it be citizenship or only the grant of certain rights?

MR. PARAS. Your Honor, it would only be grant of certain rights and privileges.

SEN. ARROYO. So they'll not be called citizens.

MR. PARAS. No, Your Honor.

SEN. ARROYO. That is the tentative position of the Department of Justice?

MR. PARAS. Yes, Your Honor.

SEN. ARROYO. Not citizens?

MR. PARAS. No, Your Honor.

SEN. ARROYO. The department feels that that would run counter to the Constitution.

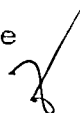
MR. PARAS. Yes, Your Honor. I mentioned the three constitutional provisions.

SEN. ARROYO. Can you not harmonize it in the sense that you grant them citizenship but under certain restrictions, do you think you can do that? Because it would look strange that here, you have certain Filipinos who are not vested with Filipino citizenship exercising certain rights which other nationalities cannot have, cannot exercise here. What I'm trying to say is, for instance, you grant them, as you mentioned, about the DTI. Supposing a foreigner now complains. Why do you give that to a

non-Filipino citizen? Meaning, that is a legitimate question that a foreigner may, perhaps, ask. You grant it to a non-Filipino citizen simply because he lost his citizenship once upon a time. But now, she has more rights than us. Me, a foreigner, for instance. I mean those things. I'm not saying that you give an answer now but I think you've to consider that because we might create problems in the sense that you are having now an intermediate class. Certain people being given certain rights who are still classified as foreigners because they are not Filipino citizens. Since they are not Filipino citizens, then they are, perhaps, US citizens. But yet, you grant them certain rights which you deny to other US citizens. I mean, things like that.

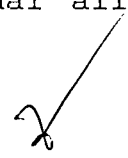
Do you get the point I'm trying to drive at?

MR. PARAS. Your Honor, as a matter of fact, then we will have to justify it under the reasonable classification clause of the Constitution. They should rest on substantial distinctions, they should not be limited to present conditions, they should be germane to the subject matter and I think the other ...




SEN. ARROYO. Mr. Chairman, wherever, if I see the explanatory note of most of the bills here, the idea is really to grant Filipinos who have acquired foreign citizenships, more particularly US citizenship, the rights that they once upon a time had. And that is the idea and I would suppose that you have to stretch this far enough to be able to grant them to -- otherwise, it will defeat the provisions of the bill. I think the Department of Justice has been given interpretations that, perhaps, even stretches beyond what is reasonable on the question of land ownership, the 60-40 provision on public utilities. The 60-40 provision on land ownership, and many others. So, what I'm saying is that, is the attitude of the department consistent with the objectives of the various senators who filed this bill and which is, to maximize the benefits. That's my question to you, Usec Paras.

MR. PARAS. Well, Your Honor, yes, we subscribe to the intent of the legislators on dual citizenship. But the problem particularly, is that provision of the Constitution which says that dual citizenship is inimical, ah, -- dual allegiance is inimical to the national interest.



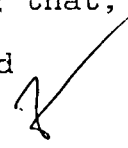
THE CHAIRMAN. Secretary Paras, in the previous hearing, we deliberated on the distinction between dual citizenship and dual allegiance, and that there is a difference. In fact, the records of the constitutional commission, the deliberations on dual citizenship and dual allegiance, Senator -- now Senator Ople, then Commissioner Ople, made specific mention of what constitutes dual allegiance. And he was referring here to former Chinese nationals who acquire Filipino citizenship but who still maintain allegiance to Taiwan or to Beijing. And, therefore, that would be dual allegiance. As distinguished from dual -- well, the term dual citizenship, perhaps, meaning, you are a natural born-Filipino, you became an American citizen but in a sense, you're still a Filipino at heart, and would like, perhaps, at the end of your twilight--of your years, you want to go back to the Philippines, retire here, but because you lost your citizenship, you wish to invest here, you wish to buy land here but you are prohibited because of, precisely, the citizenship requirement. So this is a different view, no, from the view that you just mentioned earlier.



MR. PARAS. Yes, Your Honor, I'm glad that you mentioned about the Ople provision which is the dual allegiance provision. Actually, the explanation of the annotators like Father Bernas quotes the explanation of Senator Ople and Senator Ople explained that it is inimical and dangerous because it might funnel Philippine resources, to say, Taiwan, and then he mentioned Malaysia, and I think Indonesia. So we will have to look into that, Your Honor. If the intention of the framers of the Constitution is to prohibit that kind of dual allegiance, where they prohibit foreigners from obtaining Philippine citizenship and still maintain their former citizenship, if the intention was only to limit it to that kind of dual allegiance and it will not apply to natural born-Filipinos who wishes to apply for naturalization abroad, then I think we could find a solution to the bill, Your Honor.

THE CHAIRMAN. In fact, in the last hearing the representative of the Commission on Filipino Overseas, Mr. Jose Molano, the Executive Director, I don't know if you know him, well, he gave a very interesting piece of information about how many countries have, in fact, whether expressly or impliedly are actually practicing dual citizenships.

And the number comes to around 90 countries wherein, for example, England, they provide you with a British passport, but they do not require you to surrender -- if you are a holder of a Filipino pasport, they do not require you to surrender your Filipino passport. In effect saying that, you know, you may be a British national .../cfd



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THE CHAIRMAN. ... British national and you may also carry a Filipino passport, it does not really matter to us. And 90 other countries, well, 90 countries, according to Mr. Molano, exercise this kind of policy with respect to nationals about their countries acquiring their passports or carrying their passports. In effect, saying that it is a practice. Dual citizenship may not be said expressly, but it is actually practiced.

MR. PARAS. Yes, sir. As a matter of fact, Your Honor, there is a Hague Convention of 1930 on the conflict of national laws. In private international law or conflict of law, we took that up when, for example, a person who has two nationalities dies in the Philippines, what law will we apply to determine the successional rights of his heirs. We resolved it by looking at what is his effective nationality, Your Honor; what was his real intention; did he want to die under his last acquired nationality or the second or the third acquired nationality? So, that Hague Convention itself, as way back 1930 already recognizes the fact that there are countries which recognize dual or even multiple citizenship, Your Honor.

SEN. ARROYO. Mr. Chairman.

THE CHAIRMAN. Yes, Senator Arroyo.

SEN. ARROYO. Well, you know, ASec. Paras, I hope the Department does not overlook the prime, the objective of this bill. And the objective of this bill is that... you know, the bigger countries or the more progressive countries are more liberal about the citizenship requirement. The

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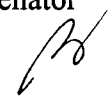
Americans are not complaining about Filipinos having both Philippine passport and US passport, but we seem to be so strict about that, so parochial about it. Okay. Now, I used to have that thinking myself.

But the intent of this bill, the bills filed—and there are, I think, three or four of them—is to help precisely Filipinos, former Filipinos to enjoy certain advantages of a Filipino citizen. Now, the Department of Justice had issued interpretations on the question of what constitutes 60-40 of public utilities? Your Department has issued opinions on what is 60-40 on landownership, and we have already created the fiction that so many foreigners here now owned lands through the fiction of the opinions of the Department of Justice, to accommodate foreigners supposedly, so that to kind of—what do you call this?—stimulate the economy. Now, I would hope that the Department would have that attitude, because I seem to think that you're very keen about putting, you know, being very technical about this. But in the question of landownership and public utilities on the 60-40 provision, my golly, I mean, I, myself, am surprised that the opinions of the Department of Justice which have been adopted already by the judiciary. So, I hope that you'll be liberal about this if the idea of all these proponents will have to be taken into account.

Thank you, Mr. Chairman.

THE CHAIRMAN. Thank you, Senator Arroyo.

The Chair acknowledges the presence of the Senate President, Senator Drilon.



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We can probably proceed with the presentation of the other resource persons, unless....

SEN. OSMEÑA (J). Mr. Chairman.

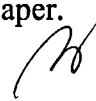
THE CHAIRMAN. Yes. Yeah. Senator Osmeña.

SEN. OSMEÑA (J). Could we get the statement of ASec. Paras in writing? Did you prepare a brief on that, or will you send it in...?

MR. PARAS. Your Honor, precisely, the position paper is being reviewed, because Secretary Perez would want us to review our former position in the House of Representatives where we had reservations on the bill on dual citizenship, because of the mentioned constitutional provisions. Now, I discussed it with him about two weeks ago, and he said, review it. And particularly, we will look into the interpretation or the intention of the constitutional commissioners in including that provisions which provides that dual allegiance is inimical to the national interest. What was the real intention? Who were they being addressed? Is it the Filipinos who would like to go abroad or the foreigners who would come in into the country, Your Honor?

SEN. OSMEÑA (J). So, your statement here is tentative. It's a personal statement. It's not the statement of the Department of Justice. Is that the way you want us to...?

MR. PARAS. Yes, Your Honor. In fact, we'd like to get even more information, so we can really input it into the position paper.



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SEN. DRILON. Mr. Chairman.

SEN. ARROYO. Mr. Chairman.

SEN. DRILON. I would like to know, have you read the case of Manzano?

MR. PARAS. Yes, Your Honor.

SEN. DRILON. And do you recall the discussion on the dual allegiance there citing the debates in the Constitutional Commission?

MR. PARAS. I remember, Your Honor. But....

SEN. DRILON. When was the last time you read it, a year ago?

MR. PARAS. Your Honor, I have it in my....

SEN. DRILON. No. Did you read it? And do you recall? Because your questions on how it is interpreted, what is the intention was precisely discussed in the case of Manzano citing extensively the views of the author, Senator Ople, on dual allegiance. Do you recall? Have you read that portion?

MR. PARAS. Your Honor....

SEN. DRILON. Do you recall that, Assistant Secretary Paras? Or you just came here unprepared?

MR. PARAS. Your Honor....

SEN. DRILON. Did you come here unprepared?

MR. PARAS. No, Your Honor, I was....

SEN. DRILON. So, you came here prepared.

MR. PARAS. Your Honor, I was just explaining that there was a previous position which we were required to review, Your Honor.

SEN. DRILON. You said that you were required to review precisely what was the intent of that dual allegiance provision in the Constitution. Is that correct?

MR. PARAS. Yes, Your Honor.

SEN. DRILON. And that's why I'm asking you, did you read the case of Manzano?

MR. PARAS. Your Honor, but it was quite a long time ago.

SEN. DRILON. I see. And how long a time ago?

MR. PARAS. Your Honor, maybe over a year ago.

SEN. DRILON. Thank you. Because that case of Manzano precisely explained the intent of that dual allegiance provision of the Constitution, and quoting extensively the author, then Commissioner Blas Ople. So, if you go through that, you don't have to guess what the intention is.

THE CHAIRMAN. Thank you, Senator Drilon.

I think one of the problems of the Department of Justice is that it has gone on record in a hearing in one of the committees in the House being critical of dual citizenship. Therefore, they're probably trying to repair or trying to go through the whole process of reviewing your position after having said or coming up... after having come up, rather, with already an official position on the matter. So, hopefully, your review of the matter is done at the

soonest possible time, so that we can get a clearer articulation of your position. If your position here will be inconsistent with your position in the House, I suppose, what you can do is make the necessary representation in the House that the same has been reviewed, and that you are submitting a different position on the matter. Just to go through the whole process, 'no, because I can understand where you're coming from, you cannot come up with your position here because you already made an official position in the House, and that would create some problems in terms of your consistency.

However, as soon as you've been able to do the review, and we would like to have it as soon as possible, we would appreciate the Department's position paper on the matter.

Can we have the Bureau of Immigration? Commissioner Domingo, you have the floor.

MS. DOMINGO. Good afternoon, Mr. Chairman, Senator Arroyo, Senator Osmeña, and Senate President Drilon.

At the outset, we'd like to differentiate between the three kinds of citizens that we might be talking about here....brhg

MS. DOMINGO. ... that we might be talking about here. We have aliens who actually are Filipino citizens because they became, for example, American citizens because they were born in the United States while their parents are still Filipino citizens.

Second, these are Filipinos who go to another country and there as adults apply for naturalization as, for example, again, American citizens.

There's a third classification, Your Honor, where a mother and a father of maybe four or five children who will go to the United States as Filipinos, they become naturalized Americans, they petitioned for their children and their children who are of minor age then become American citizens.

In two cases, the first and the third, the children do not have any choice in their citizenship. So, in the first this was resolved through the recognition of Filipinos, of children born of Filipino parents who became citizens just because of the laws in the land where they were born. So, now, they are recognized as Filipinos.

In the case of the United States, we have asked the United States Embassy, they say that these kinds of Filipinos and American citizens, they can enjoy dual citizenship without having to do anything. They don't have to choose at any age.

SEN. ARROYO. From their point of view.

MS. DOMINGO. From their point of view.

SEN. ARROYO. Thank you.

MS. DOMINGO. Yes, Your Honor.



The second one, this is more difficult because they are required to file an oath of allegiance to the United States whether that this means it's a categorical renunciation of their Filipino citizenship, it would be subject to the interpretation of the courts I suppose and of the lawmakers.

The third is a problem. The children were born in the Philippines of Filipino parents. Their parents migrated to the United States and after five years of continuous stay there they were able to obtain American citizenship. They petitioned for their Filipino children to go to the United States who later became before they reach the age of maturity to become American citizens. There were some who are applying for recognition but that is not provided for in the Constitution unless the operative word would be "when they were born one or both parents are Filipino citizens." So, anything that goes in between their being Filipinos and naturalization and going back to Filipinos is not considered because this is the operative term.

In as far as the discussions on dual allegiance and dual citizenship, we, of course, support the concept that citizenship is different from allegiance. Citizenship is acquired, like we said, innocently and without any participation on some people, others with their full knowledge that they are now going to be citizens and that they're leaving their former citizenship. However, allegiance is a personal choice and it becomes very important when there are conflicts of interest. Because, for example, if the Philippines goes into war with China, for example, will the Filipino-Chinese fight for the military of the Armed Forces of the Philippines against the Chinese nationals or not? That I

guess... Or if there is an economic crisis wherein the substantial investments of the... or Indian-Filipino nationals would make a difference between the development of the economy of India or the Philippines. Would they choose to side with the Filipino and invest and at risk their capital in the Philippine economy. And I guess this is just a matter of putting it in layman's terms.

As far as the laws that have been – the bills that have been given to us for analysis, I'd like to go to the easier ones.

The Senate Bill No. 903, we fully adhere to because our present law is very discriminatory. As we were explaining earlier, if you are a Filipino male and you are married to an alien female, the alien female is allowed to obtain citizenship after 5 years through the administrative means, which means they file with us and after we have determined that we can recommend such citizenship for approval, we give it to the Department of Justice Secretary for final approval. However, if the citizen is the female, a Filipina, is married to an alien man, the alien man does not have this privilege to attain Filipino citizenship. In fact, if the man is of a restricted national or there's no reciprocity in permanent residency, then this person is only given a temporary residence visa even married to a Filipino woman. These are citizen. So, we adhere – you know, we fully support this bill because it takes out the sexist feature of our citizenship law by administration.

We seek the retention of Senate Bill No. 1354 and 1340. They have similar features. We agree for the retention of Philippine citizenship for those who have been

naturalized in a foreign country unless there is categorical renunciation of Philippine citizenship. Again, when you categorically renounce your citizenship, you are saying that, "I am aware, I am losing my citizenship and that I am now a citizen of another country." Categorical renunciation, I think, would mean categorical statement of non-allegiance or allegiance to another country. However, we would like to extend...

In the United States, it is true that if you have dual citizenship, if, however, you run for public office or are appointed to a public office in the other country of citizenship, you lose your Filipino citizenship.

So, we are saying and we are recommending to extend the bar of Senate Bill No. 1354 not only to those who are elected or who ran for elections in another country of their citizenship but also for those who were appointed in the other country of citizenship.

Senate Bill No. 1340, again, it is categorical renunciation to lose Philippine citizenship. And it divests Congress of its authority to reinstate Philippine citizenship and gives it to the Bureau of Immigration. We, of course, agree.

I guess there is already a justice position on the extension of certain rights and privileges to former natural Philippine citizen. As one of the bureaus under the Department of Justice, we would like to accede to their opinion.

THE CHAIRMAN. Which is under review.

MS. DOMINGO. Which is under review, Your Honor.

Y

I think that we have covered all of it except for Senate Bill No. 100 where we are of the opinion that the bill is constitutionally infirmed, again, because it does not differentiate between citizenship and allegiance.

Thank you, Your Honor.

THE CHAIRMAN. Thank you, Commissioner Domingo. Maybe we can have the Department of Trade and Industry.

Atty. Gines.

MS. GINES. Thank you very much, Your Honor.

First of all, I'd like to beg the indulgence of the Committee for us not being able to submit our formal position paper today because the Board of Investments to which I belong to only received the copy of all these bills yesterday. But I've been tasked to give the initial position of the department regarding the grant of certain rights and privileges to former natural born Filipino citizens.

Now, Your Honor, there are already existing laws granting certain privileges and rights to former natural born Filipino citizens. The very first law was Republic Act No. 8179 which was passed in March 1996 and it already granted former ...

As I was saying... /jss


M

MS. GINES. As I was saying, Mr. Chairman, in March, 1996 an amendment to the Foreign Investments Act, that's Republic Act 8179 was passed into law, granting same investment rights to former natural-born Filipino citizen to engage in cooperatives, thrift banks, rural banks and financing companies. So, as far back as 1996, these rights, certain rights have already been granted to former natural born citizens. In that same law, it also allowed former natural-born citizens to become transferees of land but only to a limited extent.

Now, for urban land, the limitation is only for 5,000 square meters. And for rural lands, the limitation is only up to 3 hectares. And the land should be used only for business purposes.

Now, recently, the R.A. 8762, otherwise known as the Retail Trade Nationalization Act was passed in March, 2000, yes, in March, 2000 which also granted former natural born Filipino citizens the same rights and privileges as Philippine nationals. They only have to prove that they stay in the country for at least 180 days, cummulatively. So, probably, Mr. Chairman, Your Honors, there is really no need for the inclusion of the operation of rural banks and engaging in retail trade in the Senate bills.

Thank you very much.



THE CHAIRMAN. So. Atty. Gines, the DTI does not have a position on the issue of dual citizenship at this time? Would you have any idea when the DTI will have its position.

MS. GINES. Actually, Your Honors, the position paper is being drafted it's just that my undersecretary is not in the country and he has to review yet the position paper which we have drafted.

THE CHAIRMAN. And the draft position paper is already available?

MS. GINES. Yes, Your Honor, but I just don't have it with me.

THE CHAIRMAN. Okay. So, we would like to have that position paper made available as soon as possible.

MS. GINES. Yes, Your Honor.

THE CHAIRMAN. Can we have the National Security Council.

Atty. Olaa.

MR. OLAA. Ah, Yes, Your Honor.

Mr. Chairman, Your Honors: Senator Drilon, Senator Osmeña, Senator Arroyo.

We have--the following are our initial comments on the bills on dual citizenship. We have no major disagreements on the grant of dual citizenship although the Constitution provides for dual citizenship possibly



acquired and it doesn't mention about actively acquired dual citizenship. Further, it provides that dual allegiance is inimical to national interest. In the viewed--in the light of national security, this implies that the status of dual citizenship deliberately acquired or not must be regulated by law where it is conducive or could lead to dual allegiance.

We ask this Honorable body to view the following as and to consider the following: Like joining or entering into a civilian secret intelligence service of a foreign country by being concurrently citizen of other state considered as unfriendly to the Philippines.

How do we now treat the status of our very own foreign nationals who are naturalized Filipino citizen? Will it--shall we based it on the principle of reciprocity?

So, so far, Your Honor, that's our comment.

THE CHAIRMAN. We also have it on record that the National Security Council Secretariat has submitted its position paper.

Finally, we have the Integrated Bar of the Philippines, Atty. Pilando.

MR. PILANDO. Thank you, Mr. Chairman. And good afternoon to the distinguished members of the committee.

First of all, we'd like again to extend our



appreciation for the invitation extended to us to give our views on the proposed legislation that delves on dual citizenship.

Mr. Chairman, if I may be allowed to just read certain excerpts of the short paper we submitted to the committee.

THE CHAIRMAN. You can proceed, Atty. Pilando.

MR. PILANDO. Mr. Chairman, the Constitution allows the Philippine state to determine by law how Philippine citizenship can be lost or reacquired, subject, of course, to its provision that dual allegiances shall not be allowed, as the same is inimical to the national interest. Dual citizenship is allowed, recognizing the right of every natural-born Filipino to his nationality acquired by reason of birth by Filipino parentage.

In the light of existing political and economic context of the Philippines, wherein migration could be an involuntary option, the least that the Philippine state can do is to guarantee its natural-born citizens this right for their protection by way of according the natural-born Filipinos the right to remain a Filipino citizen despite naturalization, for as long as there is no intention to renounce the Philippine citizenship.

In this light, Senate Bills 1340 and 1354 are laudable, as they take into consideration the realities



that every natural born citizen might face in these times of globalization where naturalization may not be once free or voluntary option.

Moreover, Senate Bill 1354 provides retroactive application to retention of Philippine citizenship in cases of naturalization, except, if there is express and voluntary renunciation.

That in brief, Mr. Chairman, would be our position on the issue of dual citizenship.

THE CHAIRMAN. Thank you, Atty. Pilando.

I have some questions--yes, Senator Drilon.

SEN. DRILON. As President of IBP, Atty. Pilando, can you explain to this committee your views on dual allegiance and whether or not this provision or this proposed measures would run afoul with the constitutional provision on dual allegiance?

MR. PILANDO. Thank you, Mr. Senate President.

We differentiate dual allegiance from dual citizenship, Your Honor. As stated in the case of Manzano, I think that's a 1999 case. Dual citizenship is different from dual allegiance. The application of law there, I mean, dual citizenship is a result of an involuntary application of laws. While dual allegiance necessitates overt or an act more than mere--more than the mere oath that is usually required in naturalization

proceedings.

SEN. ARROYO. May I...

THE CHAIRMAN. Your follow-up, Senator Arroyo.

SEN. ARROYO. I would like to ask this general question and anyone can answer it 'no, I mean. If a country does not object to a Filipino having both, I mean, a dual citizenship or dual allegiance. Let's cite an example, the United States. If the United States does not object to a Filipino who is also considered by the United States an American citizen, if they don't object to these Filipinos having dual citizenship, would you object to that? I mean, I am just asking this question because if the American government, for instance, does not mind, then, are we trying to say that we mind it? I mean, because if the idea of the government is to loosen up then, the idea is to find a solution, 'no, to that, 'no. I mean, I would like.../rommel.



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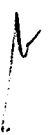
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SEN. ARROYO. ...I mean, I would like to -- because in your classification, Commissioner Domingo, you mentioned about one who has been, who was born in the United States of Filipino parents because of birth then automatically becomes American citizen. But he is also a Filipino citizen because his parents are both Filipinos, all right. Now, you said that from the point of view of the United States that person need not do anything more. From the point of view of the United States he is an American citizen. Now my question to you now is, from the point of view of the Philippines, what is he, is he also a Filipino citizen?

MS. DOMINGO. Yes, Your Honor, and in that way we already recognize dual citizenship. In fact, Your Honor, there is also a law that allows repatriation of Filipino citizenship for those who lost their Filipino citizenship through naturalization. And when we ask the United States government we said, he's already a Filipino, he repatriated, does he lose his American citizenship? And they say no because their law is silent on that.

SEN. ARROYO. All right, Mr. Chairman. Let's take the third case. A person, a minor, who goes to the United States with his adult, what I mean his parents, then his parents acquire U.S. citizenship, then the Filipino has acquired U.S. citizenship now petitions for those two minors, then they go to the United States, along the way they become also U.S. citizens. Now these minors had no say at all on their citizenship because it was their parents that practically chose their citizenship. Now what is the position of the U.S. government in respect to that? I mean, as far as you know? 

MS. DOMINGO. They tell me, in general, it is very difficult to lose American citizenship and that they, in fact, tolerate dual citizenship. And in this case I am of the opinion it would be the same case as in the recognition because when they were born they were they were Filipino citizens because their parents were Filipino citizens.

SEN. ARROYO. So it's similar to the first case?

MS. DOMINGO. I think so, sir, but we're still looking into that because this is a new case now that's coming in and there are parents who are applying for recognition for their children under this situation.

SEN. ARROYO. Because in practical terms I think this is more addressed to you U.S., I mean, in the nature this is more addressed to Filipinos who have acquired U.S. citizens than in any other nationality, ano.

So Commissioner Domingo, if in the first and third cases that you mentioned the Philippine government does not have to do anything.

MS. DOMINGO. They have to be recognized so that it puts...

SEN. ARROYO. What do you mean by recognize?

MS. DOMINGO. It means that they have to submit to the Bureau of Immigration proof that during the time of the birth of the children their parents are still Filipinos. And after that we then submit it for confirmation by the Department of Justice. And then we issue them identification card. This is also, well, to prevent abuse from the benefits derived from this constitutional provision but also for the children to be able to know that they are really Filipinos and that in the Bureau of Immigration they are not registered as aliens. *✓*

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SEN. ARROYO. So in other words, from both the U.S. side and the Philippine side there would seem to be no problem?

MS. DOMINGO. There is no problem at all, Your Honor.

SEN. ARROYO. So the problem is only on the second case that you mentioned?

MS. DOMINGO. Yes, Your Honor, but if...

SEN. ARROYO. Can you restate again the second case?

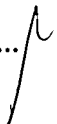
MS. DOMINGO. The second case is that a Filipino of adult age, for example, goes to the United States as an immigrant and after five years is able to acquire American citizenship by taking an oath and filing an oath of allegiance to the United States government they would have then lost their Filipino citizenship because I think filing an oath of allegiance to another country is renunciation of your citizenship as a Filipino...

SEN. ARROYO. From our point of view?

MS. DOMINGO. From our point of view, Your Honor.

SEN. ARROYO. Okay, go ahead.

MS. DOMINGO. But that has been remedied because in 1995 a law was passed on the simple repatriation of Filipino citizenship of this class of alien. Which means that they have to file an oath of allegiance to the SCN and the SCN then, the Special Committee on Naturalization and the SCN then approves it and confirms it and then you become a Filipino citizen again. But when we asked the American if this act now constitutes a renunciation of their American citizenship they say no.

THE CHAIRMAN. (off-mike) But they are still... 

MS. DOMINGO. They said no. They said that their law is silent on this so that even those Filipinos who became naturalized Americans, who repatriated back to Filipino citizenships, they can still hold their United States passport and still considered as American citizens.

THE SENATE PRESIDENT. (off-mike)

MS. DOMINGO. Yes, Your Honor.

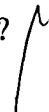
THE SENATE PRESIDENT. Now, just to reverse the situation. An American who becomes a Filipino citizen, all right, ha, he goes back and repatriates and goes back to America and acquires American citizenship, under our laws he loses Philippine citizenship, is that correct?

MS. DOMINGO. Yes, Your Honor, because in the United States...

THE SENATE PRESIDENT. No because under our laws, Commonwealth Act 63 says naturalization in a foreign country means loss of Philippine citizenship. So there you are, from the point of view of America they would allow the former Filipino citizen who became an American citizen to repatriate to the Philippines and become a Philippine citizen and therefore have a dual citizenship. But on the other hand, an American citizen who becomes a Filipino citizen by naturalization and repatriates to America loses his Philippine citizenship because under our laws, Commonwealth Act 63, mandates the loss of citizenship upon naturalization in another country.

SEN. ARROYO. Masyadong maluwag pala 'yong American position ha?

THE SENATE PRESIDENT. Ang sa atin naman masyadong mahigpit.

SEN. ARROYO. Sa atin nga masyadong mahigpit. Ganoon ba 'yon? 

MS. DOMINGO. Marami pong country na maluwag, Your Honor. Maski na 'yong Canada, maski na 'yong Switzerland, maski na ang Sweden.

SEN. ARROYO. It's very hard to get a Swiss citizenship, you know.

MS. DOMINGO. Yeah, but when you get it you can retain your Filipino citizenship. Because their citizenship laws do not require renunciation or oath of allegiance. You are issued a passport.

SEN. ARROYO. Would you say, Commissioner Domingo, that these countries are more confident about -- in other words, they are more secure, ha?

MS. DOMINGO. Yes, Your Honor.

THE CHAIRMAN. He had a phobia. We would like to, before we proceed, we would like to acknowledge the presence of Undersecretary Merlin Magallona of the Department of Foreign Affairs.

MS. DOMINGO. Your Honor, can I read the provision that had been asked by Senator Drilon from the Ernesto versus Manzano and the Commission on Election? The Supreme Court clarification?

THE CHAIRMAN. Just the, yes...

MS. DOMINGO. Yes, just the part, a paragraph.

THE CHAIRMAN. Yes, please. Afterwhich, we will ask Dean Magallona, Undersecretary Magallona, to present his position paper. Go ahead, Commissioner Domingo.

MS. DOMINGO. It says, the Supreme Court clarify the concepts of dual citizenship and dual allegiance as follows in this case Ernesto versus Manzano and the Commission on Elections.

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To begin with, dual citizenship is different from dual allegiance. The former arises when, as a result of the concurrent application of the different laws of two or more state, a person is simultaneously considered a national by the said state. For instance, such a situation may arise when a person whose parents are citizens of a state which adheres to the principle of 'jus sanguini is born in a state which follows the doctrine of jus soli. Such a person, ipso facto and without any voluntary act on his part, is concurrently considered as citizen of both states. Considering and then verily... Ah well, I don't want to read the whole. Dual allegiance, on the other hand, refers to the situation in which a person simultaneously owes, by some positive act, loyalty to two or more states. While dual citizenship is involuntary, dual allegiance is the result of an individual's volition.

That is the Supreme Court ruling on Manzano.

THE CHAIRMAN. Thank you, Commissioner Domingo. We now turn to Undersecretary Magallona. You have the floor.

MR. MAGALLONA. Thank you, Your Honor, Honorable Members of the Committee, I wish to open with an apology.../mhs

MR. MAGALLONA. ... apology for coming late. I was called by the Committee on Commission on Appointments for some clarifications.

May I start with the observation that coming from a number of consultation meetings with Filipino communities in Europe and in Asia. The question of dual nationalities is of great interest to more than seven million Filipinos abroad. In the first place, the question of dual nationality is well connected with the system of absentee voting on the primary question asked, "Who shall be qualified to vote?" And there is a great interest of our dual citizens abroad to participate in the decision-making that is involved in absentee voting. How therefore this question would be resolved would, one way or another, affect the Filipino communities abroad?

A dual nationality is implied in our Constitution. So perhaps one approach is to consider dual nationality in terms of categories. There are categories of dual nationality which is implied from at least two provisions of the Constitution. And so those which are outside the coverage of the Constitution by implication may still have certain categories of dual nationals but it might be problematical.

THE CHAIRMAN. Dean Magallona, just before you proceed, just to be clear about it, when you refer to dual nationality you mean dual citizenship?

MR. MAGALLONA. Yes, dual citizenship.

THE CHAIRMAN. Okay. Just so that we care on that.

MR. MAGALLONA. I have in mind from the angle of international relations which would cover also dual nationality on the part of other countries. Our dual citizens would be dual national with respect to the other countries.

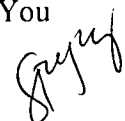


Let me at once mention two provisions of the Constitution which would imply a clear recognition of dual nationality on the part of Philippine law. And on the other hand recognizing the problems brought about by the concept of dual allegiance in the Constitution.

The first provision which implies clearly the recognition of dual nationality is Section 1, Item II, which reads, "Those whose fathers or mothers are citizens of the Philippines." Of course, this would generate conditions of dual nationality if we have this simultaneous application of the **jus sanguinis** principle which is the principle under this provision, and the **jus soli** principle in another state. And therefore, while citizens of the Philippines born of Filipino fathers or mothers would have Philippine citizenship, they would at the same time, on the basis of the principle of **jus soli**, acquire nationality on the part of the state of birth.

The other provision which implies dual nationality is in Section 4 of Article IV of the Constitution which says that citizens of the Philippines who marry aliens shall retain their citizenship unless by their act or omission they are deemed, under the law, to have renounced it.

Let me illustrate this by a concrete case that came up to our office for resolution and we solved it on the basis of dual nationality. We have a number of Filipinas who are married to Iranians. And when they came to Iran, as a matter of procedure and requirement, their Philippine passports were taken from them and they were issued Iranian passports. And subsequently, they expressed the desire to come home to the Philippines and so they approached our embassy in Tehran. And our embassy said, "You

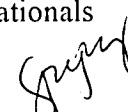


have to pay visa fees." And the Filipinas protested. And so the question came up to our office and we ruled that they should be exempt from visa fee and if they would ask for the issuance of Philippine passport, they shall be entitled to one.

SEN. DRILON. By that act, are they considered Filipino citizens?

MR. MAGALLONA. Well, they are still Filipino citizens even by virtue of the marriage to an Iranian citizens because it is merely by the operation, by the automatic application of the law of the husband state that they acquire Iranian nationality. It is not in the language of the Constitution by their act or omission that are deemed to have renounced it. So the operation of the law of a foreign country does not constitute a renunciation by itself, a point which is relevant to the bills that are being considered by this Honorable Committee.

So here we have two categories of dual citizenship which need not be elaborated so much in bills except maybe by way of clear implementation. And we have a case with respect to the first case of dual nationality of a Filipina who went to Japan. And in the course of her work, she gave birth to a baby boy. And of course in the course of time she could not also locate the father. And she came back to the Philippines together with the baby boy who was by the way issued a Japanese passport. So when the immigration in the Philippines saw that, they raised questions as to the nationality of the boy. And they said, he is a Japanese national because the Philippine passport is presented to them, to the Immigration officers. However, the mother was insisting that despite his Japanese passport, he is still a Filipino citizen. And pertinent to this is Section 1, Item II of Article IV of the Constitution. I notice, Your Honors, that these two categories of dual nationals



are treated in virtually of the bills that are pending before this Honorable Committee. So I am not sure whether it is necessary to reiterate and to create categories of dual citizenship in a bill to be enacted into law except perhaps it should be clarified that this is in implementation or clarification of these two categories of dual national citizenshipship which are clearly implied in the Constitution.

THE CHAIRMAN. Yes, Senator Drilon.

SEN. DRILON. Dean Magallona, under Commonwealth Act 63, naturalization in a foreign country is a ground for loss of Philippine citizenship. And unless we repeal Commonwealth Act 63, by our own laws, somebody – a Filipino – a natural-born Filipino citizen who would be naturalized in a foreign country would automatically lose Philippine citizenship by virtue of Commonwealth Act 63. Would you agree with that observation?

MR. MAGALLONA. Your Honor, it seems to be the assumption of that provision in Commonwealth Act 63 that the renunciation is necessary or comes about because by the acquisition of another nationality there was specific act of renunciation of Philippine citizenship. But in many cases, there are Filipino citizens who are considered under the laws of the countries where they are, countries of employment, which may not require even a renunciation of allegiance to the Philippines.

SEN. DRILON. Let us focus in the United States. When they take their oath of allegiance to the United of States of America, these Filipino citizens are considered already American citizens and no longer.../snt



SEN. DRILON. ... no longer Filipino citizens by the Bureau of Immigration because of Commonwealth Act 63. The mere fact that they take their Oath of Allegiance as American citizens by operation of Commonwealth Act 63, Bureau of Immigration would consider them as foreigners, American citizens, to be more specific.

MR. MAGALLONA. Your Honor, if we read to this committee the oath of allegiance taken by one naturalized as American citizen, there is specific renunciation.

SEN. DRILON. That's correct. And, therefore, by operation of Commonwealth Act 63 they have lost Philippine citizenship.

MR. MAGALLONA. In relation to the oath of allegiance.

SEN. DRILON. That's correct.

MR. MAGALLONA. To the US government.

SEN. DRILON. If we repeal Commonwealth Act 63, they will not lose Philippine citizenship automatically.

MR. MAGALLONA. Prospectively, yes. I think that would be a consequence.

SEN. DRILON. No, even retroactively we can argue that.

THE CHAIRMAN. Senator Arroyo.

SEN. ARROYO. Would you not say that the '87 Constitution impliedly repeal Commonwealth Act 63?

MR. MAGALLONA. Your Honor, I might rely on the classical rule of statutory construction that there is no implied repeal and the first assumption of the court if this question comes up is to assume that it is the duty of the court to harmonize in the first place. And I think harmonization could be achieved on the basis of the new constitutional provisions in relation to Commonwealth Act 63.

SEN. ARROYO. All right. Then what would be your recommendation, Dean Magallona, about this? The problem we have is -- specific question that you raised. What would you recommend?

MR. MAGALLONA. Your Honor, I thought that before we make recommendations we can explore the general problems that may emerge from the dual citizenship or nationality.

THE CHAIRMAN. I think, Dean, you are not yet done with your position paper. There was a question raised, you're still completing your presentation.

MR. MAGALLONA. I was about to go to some general problems that might be implied.

THE CHAIRMAN. So you can proceed, please.

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MR. MAGALLONA. Your Honors, we might have two categories of problems. The first problem refers to general problems. The first one may be specific in the sense that if we attempt to unpackage the right to citizenship, we will find that there is a bundle of specific rights. And in some jurisdictions, we may have a recognition of dual nationality but it is also explicitly stated that certain rights may not accompany their right to citizenship. For example, a law may recognize dual nationality but may specify that the dual national may not be voted on. Meaning to say, cannot run for public office which might be relevant to the provision of the Constitution that requires allegiance to the republic on the part of every public officer. But the other category of problems are more general and they may consist of the following:

First, in terms of diplomatic protection. The diplomatic protection is exclusive if a person has only one nationality. And so if a Filipino citizen who comes into trouble in a foreign jurisdiction, there is the right of the Philippine Embassy or consulate to give him protection. And he has the right to seek diplomatic protection. But this exclusive bond between the state and its citizen is

broken if an additional nationality is acquired. And if a Filipino citizen would have some collision with, let us say, American law, then we have the -- the Filipino citizen has the right to expect that the Philippine Embassy or consulate would give him necessary diplomatic protection under the circumstances. But at the same time if he is an American citizen, then the American authorities may say, "We are dealing with him only as an American citizen." So there is the convergence of two diplomatic protection and there is the problem, therefore, of one who claims to be a Filipino citizen and his diplomatic protection by the Philippine Embassy is excluded by the fact that the host country of which he also claims to be a national has the right to treat with him in the manner that it treats with other American citizens. So there is the problem of the limitations that are generated by dual nationality.

The other categorical problem, Your Honor, is, the Constitution has a number of limitations in terms of requirement of citizenship. Certain sectors of the economy would require that the citizen involved in, for example, exploitation of natural resources, or in the management of

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institutions, educational institutions or engage in the advertising industry, and we may raise the question as to, if the Philippines would broaden the concept of dual nationality what would be the impact on these restrictions of the Constitution with respect, in particular, to the economy. For example, it would even affect the practice of profession. We have a provision of the constitution which makes exclusive the practice of profession on the part of Filipino citizens with the exception of some reciprocity provisions under the professional laws. So we may have to consider the impact of dual nationality with respect to rights under the Constitution, in particular, beginning with the right to seek public office. While we may say that a citizen who may, at the same time, be a national of Iran under Iranian Law may be qualified to vote, it might be an entirely different question to raise whether he has also the right to hold public office which under the Constitution might call for allegiance.

By the way, Your Honors, while the Manzano case makes a distinction between dual allegiance and dual nationality, the -- a number of Supreme Court decisions, this is before the Manzano case, of

course. But a number of Supreme court decisions are of the position that when you speak of dual nationality, you at the same time involve dual allegiance. And the Supreme Court in three cases cases, at least, says that, because of the question of dual nationality, Philippine law abhors dual nationality. But, of course, we have now changes in the Constitution and we have in the Manzano case the recognition by the Supreme Court of pertinent proceedings of the constitutional commission on dual allegiance and dual nationality. At the same time when we speak of dual allegiance, we might illustrate its distinction from dual nationality by referring to Commonwealth Act 63. We have a case in Commonwealth Act 63 which would call for allegiance on the part of a Filipino citizen serving a foreign military establishment, and under Commonwealth Act 63, it is -- constitutes a ground for renunciation except with respect to the amendment pertaining to the US in which we maintain mutual defense agreement on security arrangements, but when we come to consider, in particular, Filipino citizens serving the US Armed Forces, in the US Navy or in any branch, we must consider the fact that under US military law, they are under the command and they

have to be in allegiance to the US government. So that is a case of dual allagiance. But at the same time, the amendment of the Commonwealth Act says that they do not lose their citizenship. So they have dual allegiance. I think they have dual allegiance, they are at the same time Filipino citizens and at the same time serving the Armed Forces of the United States. .../cfd



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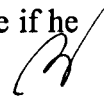
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MR. MAGALLONA. ... Armed Forces of the United States. They have dual allegiance, but they do not have dual nationality. And I think this will make reference to the constitutional policy to the effect that dual allegiance of citizens is inimical to the national interest and shall be dealt with by law, which, Your Honors, I may suggest that this might be in need of legislative amplification by, if we have a law that will define dual allegiance, perhaps, it would be easier to deal with question of dual nationality at the same time. So, perhaps the bills on dual citizenship might deal with the question and might also be on the way to implementing this provision, and clarify the scope of what is dual allegiance in relation to dual citizenship.

In particular, Your Honors, in view of the previous holdings of the Supreme Court that when you speak of dual citizenship, you have dual allegiance.

THE CHAIRMAN. Senator Drilon has few questions.

SEN. DRILON. The Dean rightfully pointed to problems arising from the consequence of the right to public office if you become a dual citizen—right to seek public office, the right... in the Philippines, ‘no—the right.... Now, would that problem be solved, Dean, if we provide that before one, who has a dual citizenship, is qualified to seek public office, he is obligated, as a qualification to run for public office, renunciation of the other citizenship? Then you have no problems about dual allegiance, because if he



seeks public office, the requirement for that holder of a dual citizen must be the renunciation of the foreign citizenship. Would that, in your view, solve the problem of dual allegiance that can arise out of that situation?

Can you use the microphone, please?

MR. MAGALLONA. Yes, Your Honor, because as a consequence, he would lose the other nationality. And as a matter of fact, the moment he takes his oath of office, there is already a renunciation of....

SEN. DRILON. No, even before he wins. The mere fact that he files his certificate of candidacy, if he is a holder of dual citizenship, then he renounces... it is deemed a renunciation of the other citizenship.

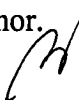
MR. MAGALLONA. Yes, Your Honor. That might also be covered by the implication of the Manzano ruling.

SEN. DRILON. All right. Now, similarly, that rule should apply in cases of service in the armed forces of the foreign country or in the Philippines for that matter. In other words, service in the foreign country, armed forces of the foreign country would be deemed a renunciation of Philippine citizenship if you are a holder of a dual citizen. Would that again solve the problem of dual allegiance?

MR. MAGALLONA. Yes, I think, Your Honor, that would be one beneficial repercussion of that.

SEN. DRILON. Now....

MS. DOMINGO. Your Honor.



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SEN. DRILON. Yes.

MS. DOMINGO. On the service of Filipinos, for example, in the US Navy, this is just a job for them. I think the question of allegiance only comes if the United States goes into war with the Philippines. Will they fight the war for the Americans, or will they go to the...? Because when they apply, they are just looking for a job. The only thing is, it's a different kind of a job.

SEN. DRILON. Yeah. I understand. But, you know, the assumption... it's so difficult to judge the state of the mind at that point. That is why we cannot legislate for a few here, we have to legislate in general. And questions of dual allegiance will arise the moment he serves in the armed forces of the foreign country or he seeks public office.

Yes, Joker.

SEN. ARROYO. Mr. Chairman, Commissioner Domingo.

THE CHAIRMAN. Commissioner Domingo.

SEN. ARROYO. You were....

MS. DOMINGO. I am just clarifying that when our nationals get employed into the US Navy, for example, they're treated as contractals.

SEN. DRILON. They do not lose their....

MS. DOMINGO. They do not lose their citizenship.

SEN. DRILON. They do not acquire American citizenship in that

case.



MS. DOMINGO. No. No.

SEN. DRILON. I am talking about a situation... we're talking here about dual citizenship. In other words, what you are fearful about is not touched in the law, because they have only Philippine citizenship, eh.

MS. DOMINGO. Yes, Your Honor. But the example given was that they are serving under... so, now they have dual allegiance—they are Filipino citizens because they still have allegiance to the... and then they have allegiance to the United States government. I was just clarifying that those who go there, who maintain their citizenship does not mean that they owe allegiance to that government because they're just working there.

SEN. DRILON. They have not acquired American citizenship.

MS. DOMINGO. They have not acquired. And we'd also like to clarify that in the practice of the Iranian government issuing Iranian passports to Filipinas married to Iranian nationals, it is purely given as a benefit derivative of the marriage to the husband. It has nothing to do with citizenship. The Filipinos are not Iranian citizens. They are just passport holders, because that is how their society is structured. And when the marriage is broken up, that passport is taken back, and then they are given their Philippine passports.

THE CHAIRMAN. Just to probably amplify on the point being raised earlier by Dean Magallona with respect to serving in the military. There are instances, of course, wherein eventually, these Filipinos who serve

with the US military, subsequently, they acquire citizenship. Then that creates a different story altogether, different from the situation wherein they are serving, but on a contractual basis, and they have not acquired US citizenship.

Senator Drilon.

SEN. DRILON. So, in other words, the problems raised on dual allegiance, possible questions on dual allegiance would resolve by an expressed provision, Dean Magallona, of a renunciation of the foreign citizenship in case they run for public office in the Philippines, and we can provide that in our laws.

MR. MAGALLONA. Yes, Your Honor.

SEN. DRILON. And also service in the armed forces would mean renunciation of Philippine citizenship if it's on foreign country.

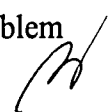
MR. MAGALLONA. Yes.

SEN. DRILON. And also in the Philippine armed forces.

MR. MAGALLONA. Yes, sir.

SEN. DRILON. That would solve the problem of allegiance.

Now, the other points that you raised, on the protection by the embassies, by the Philippine embassies in case of a dual citizenship. That problem exists now you would agree, because right now, you recognize dual citizenship. And, therefore, the problem of conflict in protection between Philippine laws and American laws in case of a dual citizenship is a problem



which exists as of today, because of the recognition of dual citizenship, particularly in America. Would you agree with that?

MR. MAGALLONA. Well, as a general situation, Your Honor.

SEN. DRILON. So...?

MR. MAGALLONA. But so, far, there has been no case about that.

SEN. DRILON. No. In other words, what I'm saying is, this bill, if it becomes law, will not add any more legal complications than where we are today.

MR. MAGALLONA. Except that...

SEN. DRILON. Maybe in number.

MR. MAGALLONA. The bills would broaden the categories of dual nationality. Whereas, right now, we have only, by implication, two categories of dual nationality which would be the focus of the problem I'm raising with respect to diplomatic protection.

SEN. DRILON. What you're saying is that the problem would increase in number, but there is already a problem today, only that it is more limited in scope.

MR. MAGALLONA. Yes, increase in number and over time, of course....

SEN. DRILON. Yeah.

MR. MAGALLONA. ... it may become serious.

Mr. Chairman, may I...?



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SEN. DRILON. Just on the third issue, I don't want to lose that.

You mentioned about the effects on the economic provisions of the Constitution, particularly exploitation of natural resources, management of educational institutions, advertising industry profession, but I think we are proceeding all on the premise that many of our Filipino citizens became foreigners not because they really have given up on their love for their country, but simply because of economic necessity. And, in fact, these days, there is so much clamor to amend the Constitution in order to liberalize this old thrust "strict nationalistic provision", which some quarters argue, is even preventing the investment in economic activities by foreigners. For example, there is so much clamor to open up the economy in many areas, like exploitation of natural resources. Of course, there are some quarters who would disagree with that—mass media. There are people who would argue...brhg



SEN. DRILON. ... who would argue that we should open up mass media. Anyway, we see CNN on our television screens, 100 percent foreign ownership and yet every cable, cable owner in this country and there are hundreds and thousands of them would be exposed to CNN, 100 percent foreign equity. Precisely, in my mind, allowing dual citizenship would ease such very restrictive nationalistic performance in our Constitution by simply recognizing the potential of former Filipino citizen. In the last hearing, the Chairman pointed to his uncle, who is a real estate developer in Guam who would want to invest in real estate development in the country but because of the constitutional restriction of 40, 60 percent Filipino citizenship, he has refrained from investing in the country and he is a former natural born citizen.

So, my point is, precisely, liberalizing or recognizing dual citizenship will allow the opening of doors to former Filipino citizens who, by virtue of their capacity now could invest in the country and would want to invest in the country but are prevented by the fact of Commonwealth Act 63, a 65 year old law which mandates the loss of Filipino citizenship upon naturalization in another country. Can we have your views on this particular point?

MR. MAGALLONA. Mr. Chairman, may I have a brief response?

THE CHAIRMAN. Yes, go ahead, Dean Magallona.

MR. MAGALLONA. When I mentioned this, I did not mention an impossibility in the sense that while we have this economic nationalism in the Constitution they do not offer an impossibility but, I think that we should explore the vaster field of problems so

that at least we know what we are doing. And this is one implication that perhaps should be explained, that it has an impact on the economic restrictions in the Constitution in terms of citizenship.

SEN. DRILON. Would that impact be to our public interest and national interest? Is it to our national interest to allow natural born Filipino citizens who lost their Filipino citizenship under Commonwealth Act 63 to be able to invest in these industries, reserve for further under the Constitution.

MR. MAGALLONA. Well, I...

SEN. ARROYO. Before you answer, Dean Magallona, with your permission.

What we are saying, in effect, we're giving former Filipino citizens, now American citizens, special privileges. That is, in effect, what we are saying. Now, do you find anything improper or will that impact on our economy? What we are saying is, we are trying to give them now privileges which will be confined, actually, to former Filipino citizens. I think that is the thrust of the bill.

MR. MAGALLONA. Well, it poses a problem, we might solve the problem by saying that in the first place this would be a limited extension. But here we have now one category of persons who are foreign citizens on the basis of dual nationality and they would now be considered as Filipino citizens from the view point of these restrictions. Now, we are not saying that this would make impossible, the acceptance of dual nationality. But I wish merely to bring your attention to this problem so that you may consider that this is one clear implication of it. But it does not make impossible the

provision of dual nationality in the pending bills. But this would change some interpretation of the Constitution in the sense that we have now a class of Filipino citizens who are peculiarly situated because they are at the same time foreign nationals but they would have the benefit of excluding from their privileges the constitutional restrictions.

SEN. ARROYO. But, Mr. Chairman, as I have said, we are creating really a special class who would be privileged by virtue of the fact that they are both American, I mean, US and Filipino citizens. But they will exercise certain rights here in the Philippines.

Now, we would welcome your observation here, Dean Magallona, as to whether, is there really something objectionable in that approach, in that kind of approach? Because I think that's the spirit of the bills. Meaning, they were, anyway, former Filipino citizens, their relatives are all here, then they want to come here, they want to retire here, they want to own land, things like that. So, what is your observation on that question?

MR. MAGALLONA. Your Honor, I would not consider this as a serious objection having in touch with hundreds of our kababayans abroad. In a process of consultation there is the honest desire to contribute to Philippine economic development even as they consider themselves and at the same time a dual national.

SEN. ARROYO. And, Mr. Chairman, we are not classifying them in the same category as foreigners who are forbidden to exercise certain rights under the Constitution.

I think the intent of the bill is not to deprive them or rather to make them fall under the

same category as foreigners who are prohibited from exercising certain economic and political rights. I think that is the thrust of these bills.

MR. MAGALLONA. Well, you know, the other part of the implication is that when they became American or other nationals, they would have been excluded from the exercise of the rights under Article XII of the Constitution on National Patrimony. We might see a process of restoration on their part with the conditions for dual nationality that we are creating under the bills.

SEN. ARROYO. And, again, Mr. Chairman, I would address this to both Dean Magallona or Commissioner...

If this bill is passed, does this mean now that, for instance, these Filipinos are both US and Filipino citizens? They vote in the United States and they vote in the Philippines. That seem to be the import of this bill? Now, do you find anything wrong in that? I think the implication is that the only price they would pay is, they run for public office. Did I get you correctly, Dean Magallona? If they will only exercise the right to vote, they don't do any act which would impair their existing citizenship status. Is that correct?

MR. MAGALLONA. I think that's arguable because if he votes in the Philippines, the Philippine law merely treats him as a Filipino citizen.

SEN. ARROYO. Then the next day, if he votes also in the States, that's fine. The United States law allows him to vote there, anyway.

THE CHAIRMAN. Liberally, a flying voter.

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SEN. ARROYO. Oo.

THE CHAIRMAN. Yes, Commissioner Domingo.

MS. DOMINGO. I think these are two complimentary bills but different bills that we are discussing, di ba? Senate Bill No. 64 and 853 does not grant citizenship but only seeks for former citizens to retain certain privileges.

And Senate Bill No. 1354 grants citizenship or allows the retention of the Filipino citizenship subject to certain conditions. So, if someone who doesn't want to retain his citizenship, if the other law is passed, he could still have certain privileges. So, the two are complimentary in that manner and it only benefits natural born Filipinos who have lost their citizenship. Because I really don't know which bill we are discussing now.

THE CHAIRMAN. All, all bills.

SEN. DRILON. I have one interesting question.

THE CHAIRMAN. Yes, Senator Drilon.

SEN. DRILON. Anybody can answer particularly the lawyers. Would you have problems about giving, in effect, the law amending Commonwealth Act 63 retroactive effect? Meaning, the moment we pass the law, all of those who previously lost Filipino citizenship because of naturalization would automatically be recognized... /jss

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SEN. DRILON. ...be recognized as Philippine citizenship without doing anything else.

SEN. ARROYO. Restore to the former...

SEN. DRILON. Restore to the former positions.

MS. DOMINGO. Except, if they've been involved in criminal and terrorist activities.

SEN. DRILON. That's why give us one exception you would like to see. Like, you know, if he is presently in the--an elected official of another country or of other country. If he is presently serving the Armed Forces of another country. Give us what you believe should be the exceptions, if you accept that this should be applicable.

THE CHAIRMAN. And if I may add, perhaps, just as an interjection, I think that would also be related to the comment earlier by Dean Magallona that we distinguish or identify or enumerate what dual allegiance--what constitutes dual allegiance, so that we may therefore, better appreciate who, therefore, would be automatically given citizenship that they lost. And who, because of dual allegiance, will be--will not be--will be excluded from such grant?

Yes, Dean Magallona.

The microphone, please.

MR. MAGALLONA. May I clarify certain situations with respect to Filipina who are married to foreign

nationals and under whose laws there is an automatic acquisition of the husband's nationality and therefore, result in dual nationality. This is not only limited to Iran, about fifteen countries would provide automatic acquisition on the part of the wife, of the husband's citizenship. And so, because it is merely by the operation of the foreign law and not by the voluntary act of the Filipina then, that does not constitute, under the Constitution, the loss of Philippine citizenship. With respect to the service in a foreign power, we are not speaking of serving the US as a shift. We have in mind, Filipinos who even become officers. And the question of allegiance there is very clear. Under American law, they are under the complete authority of US officers and they owe allegiance to the United States flag. So, there is the question of dual allegiance, but, there is no dual citizenship because he does not acquire American citizenship thereby. In addition, Your Honors, may I invite your attention to the fact, that Congress in fact has enacted two republic acts that provide for dual nationality. I am referring to Republic Act 2639 and Republic Act 3834. Republic Act 3634 and the other republic act is based on the same principle.

So, let me just take up the first one. Republic Act 2639, provides that Philippine natural-born citizen who



acquire the citizenship of one of the Iberian and any other friendly democractic Ibero-American countries in particular, Portugal and Spain, shall retain his Philippine citizenship, except that there is an additional provision here, condition, which had not been fulfilled. And therefore, dual citizenship had not been realized on the spot. But there is, as a matter of principle, a recognition very clear, explicit recognition of dual nationality in these two statutes.

SEN. DRILON. Now, can you now give your views on the question I raised, which is that, the proposal is that the moment the law is passed, all former Filipino citizens, natural-born citizens who acquired foreign citizenship and therefore, lost their Filipino citizenship, would automatically be recognized without any need for further positive acts such as an oath or whatever. What do you think of that, what's your view?

MR. MAGALLONA. Your Honor, in one's lifetime, a number of situations can call into question one's citizenship: in running for public office, in voting, in engaging in a business, and in number of statutes which require citizenship requirements. And it might be difficult to settle these questions at each stage...

SEN. DRILON. Uh-huh.

MR. MAGALLONA. ...if we cannot have a different



procedure, administrative procedure. Of course, the reacquisition of Filipino citizenship may have to be just by administrative process. But there has to be a process by which we can confirm that one is a citizen for all intent and purposes. In other words, it might be hazardous to simply--by the operation of the text of the law, to consider them as citizens. And therefore, it is time that the occasion would call into question his citizenship, he may have to produce so many papers.

SEN. DRILON. Yeah, but Dean, Dean...

MR. MAGALLONA. So, for practical purposes also, there is a need for a procedure that can, at once verify.

SEN. DRILON. But Dean, that would no--would just be the same as a repatriation through the administrative process? What's the difference then?

THE CHAIRMAN. I think ah...

SEN. DRILON. Yeah, Commissioner Domingo.

MS. DOMINGO. We just have a problem if we don't have a procedure because those who are registered with us have to apply for cancellation of their registration as aliens.

SEN. DRILON. Because...

MS. DOMINGO. And when they do apply for that, they would have to present proof that they are Filipino citizens.



SEN. DRILON. Presenting a birth certificate. In other words...

MS. DOMINGO. Then, that requires a procedure already.

SEN. DRILON. No, no, are you saying that cancellation of the ACR or whatever that is? Technically, it seems in dual citizenship you need not cancel your ACR, eh. Oh, why? You are an alien, you are an American and therefore, you may need an ACR.

MS. DOMINGO. But in...

SEN. DRILON. You are a Filipino by provision of law.

MS. DOMINGO. Your Honor, if you are categorized as an alien in the Philippines then, you are subjected to restrictions that are imposed on aliens. So, they have to clear and say--because if they are registered as aliens, there is this legal question that you are an alien in the Philippines. So now, how do you prove in each of the transactions that you are a Filipino citizen? It doesn't--you cannot be both a citizen and an alien in your own country.

SEN. DRILON. You can be.

THE CHAIRMAN. No, but I think, what Senator Drilon means is that, with this law and with your list of the alien--the ACR list, you will be able to distinguish who

are natural-born Filipinos in that list. And therefore, automatically, you cancel--you know, motu proprio, you cancel the ACR because they were natural-born citizens.


SEN. DRILON. Yeah.

SEN. ARROYO. I think, Mr. Chairman, I think what Senator Drilon is trying to--I mean, or rather which I am trying also--which I am trying thinking about, is that, it might be again a cumbersome process such that, it will require discretion and judgment. I think, what we have in mind is that, it should be a ministerial act that one who can show well, proof of birth and et cetera. But, I have a little question, supposing someone runs for public office in the United States--there's so many of them who are natural born. Now, under our laws, if you run for public office or serve a public office in a foreign country then, you lose your citizenship. So, well, would you have the--would you be able to determine that? Whether...

MS. DOMINGO. It would involve tremendous amount of intelligence work, Your Honor. But the other thing, is that, we thought that there would be disqualifications. So, if there is no procedure, how will we disqualify?

SEN. DRILON. Well...

MS. DOMINGO. And then second, there's the choice of the person, what if he doesn't want to be a Filipino?


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And he doesn't want to have...

SEN. ARROYO. Then, he doesn't exercise it.

SEN. DRILON. Then, he renounces it. If he doesn't want to be a Filipino, to avail of the benefits of this law, there is a procedure wherein, he expressly renounces.

SEN. ARROYO. Or he doesn't exercise it at all.

SEN. DRILON. Or he doesn't exercise it at all.

You see, the problem...

MS. DOMINGO. But then...

SEN. DRILON. ...of having a procedure, as Joker is saying, you know, you'll have a--our bureaucracy will have a discretion. And the moment you grant discretion, the specter of corruption...

MS. DOMINGO. But the procedure doesn't have to have any discretion. For example, how would you implement disqualifications?

SEN. DRILON. Of...

MS. DOMINGO. How--if we are going to purge.../rommel.

MS. DOMINGO. ...if we are going to purge all of our records for natural born citizens and they no longer are aliens and they do not want that they'll have to come back to us and say? So it's a reversed thing?

THE SENATE PRESIDENT (SEN. DRILON). Let them by, their positive act, cancel their ACR because they are now dual citizens. Anyway, these are not that many, you know, ilan lang ba 'yan, ha?

MS. DOMINGO. Marami 'yon, sir.

THE SENATE PRESIDENT. Yeah, marami but compared to the number of Filipinos who are now American citizens and who would have to go through a process before Philippine Embassy, how many American citizens of natural-born Filipino citizens are now American citizens in the United States who would not have ACR. I am sure by the hundreds of thousands. Now if you require a procedure you would have a room-full of documents being processed. Whereas insofar as your ACRs are concern that problem is more manageable. Let it remain as ACR and then let the Filipinos come around and have it cancelled. In other words, by exception. The assumption is that as long as they are issued ACR, they are an alien. Until they come around and have it cancelled because they are Filipino citizens. I am sure they will do it. Because the moment you restrict them then they'll come up and say, I am a Filipino citizen.

THE CHAIRMAN. I think Atty. Gines would like to give some inputs.

MS. GINES. Thank you very much, Mr. Chairman. /

THE CHAIRMAN. Before you proceed. I think, Commissioner Domingo, you asked to be excused and because you have to leave early. So we are allowing you and your team will remain. Thank you.

Atty. Gines.

MS. GINES. Thank you very much, Your Honor. Well, I just like to give a concrete example of the application of this investment rights under the Retail Trade Law as the DTI is implementing it.

Under the Retail Trade Law, sir, foreigners can only own 100 percent when the paid up capitalization of that company is US\$7.5 million and only 100 percent owned Filipino companies would be allowed to go into retailing if their paid up capital would be less than US\$2.5 million. Now if we grant same investment rights to former natural-born Filipino citizens the equity of this former natural-born citizen even though they are aliens would be considered as Filipinos so they will not be required to put up that US\$7.5 million so the equity in that company that they will put up could be somewhere between zero or 5,000 for that matter to below US\$2.5 million.

SEN. ARROYO. What's your problem with that?

MS. GINES. Well, I'm just clarifying the application of the...

THE CHAIRMAN. Do you object to that? You personally feel this is incorrect, this should not be the case?

MS. GINES. No, sir, I am just clarifying that it is how it's done. So in this particular case there is really no change in the issue of dual citizenship or dual allegiance ang nagiging question when you are dealing with same investment rights.

Because you will just be considering the equity of that former natural born Filipino to be same as a Filipino so he will only be subject to a much lower capitalization requirement.

SEN. ARROYO. Mr. Chairman. Now from your point of view, from the Department's, your Department's point of view, will that be better for us? I mean, because in the final analysis that's the question. Will it be better for us?

MS. GINES. Yes, Your Honor, in fact we are supporting the move to increase the number of activities where former natural-born citizens who would be given the same investment rights as natural born Filipino citizens.

THE CHAIRMAN. Yes, Atty. Kalaw.

MR. KALAW. Mr. Chairman, I'd like to give our observation on the question of whether the re-acquisition of Filipino citizenship should be automatic or it should go through the process. Let me cite an example, Your Honor, of a case of a former Filipino who is applying for a 13G or permanent resident as a former Filipino in the Philippines. In most cases the applicants are people who have 50 years of age or above. And most of our experience they cannot present their birth certificate. In other words, we have to make do with substitute or affidavit of other persons, affidavit of brothers and sisters or death certificate of relatives. So the point is, if there is not going to be any process, how are we going to determine if there is no birth certificate of an applicant who is a former natural-born citizen and applying for -- if the process is going to be automatic.

THE SENATE PRESIDENT. Your problem is insofar as the ACR is concerned. Now, your problem is, if you're saying if you do not go through a process

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of re-acquiring your Philippine citizenship, how do you handle those who have ACRs, hindi ba?

MR. KALAW. Hindi po ho 'yong may ACR ang tinutukoy ko but former natural born Filipinos who have been naturalized in other countries and who are coming in. They don't have ACR yet.

THE SENATE PRESIDENT. What's your problem?

MR. KALAW. If there is going to be no process in re-acquiring their Philippine citizenship at automatic lang po,...

THE SENATE PRESIDENT. Uh-huh.

MR. KALAW. ...and they don't have their birth certificate, they cannot present their birth certificate because most of those former Filipinos have been naturalized at matatanda na po...

THE SENATE PRESIDENT. Uh-huh.

MR. KALAW. ...they don't have with them their birth certificate. Either they.

THE SENATE PRESIDENT. So what?

MR. KALAW. There is no proof that they are natural born.

THE SENATE PRESIDENT. But you said that you will accept evidence of affidavits of neighbors, of brothers and sisters, baptismal certificate. So I don't really see what your problem is. It doesn't make the problem anymore complicated or less -- it's the same.

THE CHAIRMAN. If I may, if I may, probably, just try to understand what is being said here. He is a U.S. Citizen, he has lost his Filipino citizenship, he

intends to come back to the Philippines. I think the question is, how do we know that he is in fact a Filipino citizen?

MR. KALAW. A natural-born.

THE CHAIRMAN. A natural-born Filipino citizen? Because you can come up with somebody who looks Chinese more than he looks Filipino and -- mga ganoon ba, 'yong ganoon bang ano?

THE SENATE PRESIDENT. He applies for a Philippine passport in the Philippine Embassy and present evidence that he is a Filipino citizen when he applies for a passport.

SEN. ARROYO. Mr. Chairman. Alam mo tapakan mo 'yung paa niya pag nagsabing p---- ina mo, ayan, Pilipino na 'yan. (laughter)

THE SENATE PRESIDENT. There you are. What really your problem is how do you know -- your problem is how do we know that he is a Philippine citizen. So he goes to the Philippine Embassy abroad, he says, I am a Filipino citizen although I am now naturalized I understand under our laws we are allowed dual citizenship. The Philippine Embassy in Washington said, "Yes, you are now a dual... Now, can you issue him a Philippine passport? "Show me proof that you are a Filipino citizen before I issue you a passport because, you know, that's an identification." So he presents his documents as to date. He would, anyway, even if he is not a dual citizen. So I don't see any difference in the treatment. So if he does not have a Philippine, a birth certificate, he submits affidavits of the neighbor, of the father or the mother, whatever.

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THE CHAIRMAN. If he wants to do business with the DTI and the DTI wants to know his citizenship, they will require him documentation.

MS. GINES. Mr. Chairman, just to add, before we even allow him to be considered as Filipino entity he is required to show proof of copy of his birth certificate or in the absence, the unavailability and then proof of his change of citizenship. We require those documents even before we give him the benefit of incorporating or engaging in business. So...

THE CHAIRMAN. In the case wherein there is a fiat that you are now all citizens, you now enjoy dual citizenship and therefore this person wishes to avail of the US\$2.5 million and below equity, you will not require him to present your reacquisition of citizenship, ano. Unless, of course, that is what the law requires. But if the law says nothing about reacquisition, all you will require of him is his birth certificate. And perhaps if in the absence of a birth certificate, .../mhs

THE CHAIRMAN. ... in the absence of a birth certificate affidavits from disinterested persons that he was born in 25, 30 years ago, 45 years ago, in this land, etcetera, etcetera, and that would suffice.

SEN. DRILON. Apakan mo ang paa niya, sabi nga ni Joker.

THE CHAIRMAN. Atty. Pilando and then we go to Dean Magallona.

MR. PILANDO. Well, Mr. Chairman, I think the mechanics of implementation can just be taken care of by the implementing rules. But going back to the first question on the automatic application of retention of citizenship, it is our humble opinion that there is no problem with – we don't see any problem with that since it's an elementary rule in statutory construction that things that confirms rights is favorably seen upon.

THE CHAIRMAN. Thank you.

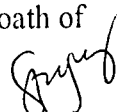
Dean Magallona.

MR. MAGALLONA. Mr. Chairman, I'm sorry.

We may have to consider certain agreements of which the Philippines is a party that might be worthy of consideration and I am referring, for example, to the Convention on the Nationality of Married Women of which the Philippines is a party and it has some principles that might be considered in the finalization of the bill.

The other thing that I would like to clarify, may I refer to the bill filed by the Senate President. In Section 3, of course, we have the provision for automatic reacquisition of citizenship. And it has three provisos.

The reacquisition, although it is automatic is subject to, first, the taking of oath of allegiance.



Second, the holding of or election to public office and third applies to officers serving in a foreign military.

My query, Your Honor, is whether in the last two cases since the conjunctive "or" is used whether this provision would dispense even with the oath of allegiance with respect to one who is seeking public office and one who would like to have reacquisition after service of a foreign – in the military – foreign military power.

My point, Your Honor, is at the least, these persons should take an oath of allegiance which is required in your first case.

SEN. DRILON. Let me clarify. Section 3 says, "Any provision of the law to the contrary notwithstanding natural-born citizens of the Philippines who are naturalized citizens of a foreign country are hereby declared to have reacquired their Philippine citizenship upon the effectivity of this Act automatic unless by their free voluntary act:

a. They renounced previously."

In other words, if they previously renounced it, I don't know by what if they have some files somewhere that they renounced it, then they have to – the reacquisition is not automatic.

MR. MAGALLONA. Your Honor, you would not require even the taking of oath of allegiance?

SEN. DRILON. No, no.

THE CHAIRMAN. No. My understanding there is everyone else will have been deemed to have reacquired citizenship except a, b, c.

Spang

SEN. DRILON. Yes, yes. That's correct, yeah. Except a, b, c. But even in a, b, c, Mr. Chairman, I have problems myself. Those who became a candidate.

Now, those who became a candidate in previous years, are they disqualified? Those who have served office and retired, are they disqualified? I do not know the answer after thinking about it.

In other words, if in 1970 they run for mayor of San Jose, California, are they now disqualified? If they were – they served in the U.S. Navy as an American citizen and now retired...

SEN. ARROYO. Retired here now.

SEN. DRILON. ... they retired here now are they disqualified? Now, under this provision they are disqualified. As a matter of policy, should we disqualify them?

SEN. ARROYO. I think we have to discuss that further.

SEN. DRILON. Yeah. Can we have your views?

Under the present provision, the...

MR. MAGALLONA. Your Honor, the most expeditious way of dealing with that is to leave that to judicial interpretation, as the case arises.

SEN. DRILON. But seriously speaking, what is your view, Dean Magallona in that instance?

He served in the U.S. Navy as an American citizen, a natural-born Filipino citizen became an American citizen served in the U.S. Navy, retired from the U.S. Navy is now here in the country.

THE CHAIRMAN. Wants to spend his retirement benefits here.



MR. MAGALLONA. Your Honor, by the equal protection of the law, I think we have to take them equally in the same category.

SEN. DRILON. Which means?

MR. MAGALLONA. Which means automatic acquisition.

SEN. DRILON. How about those in the active service?

SEN. ARROYO. Ah, no, hindi pa naman.

SEN. DRILON. Hindi puwede?

SEN. ARROYO. Oo.

SEN. DRILON. Okay.

SEN. ARROYO. So, hindi ba ganoon ba 'yong view mo?

THE CHAIRMAN. The qualification might be who are in active service.

SEN. DRILON. Who are in active service.

Now, if they are in active service, it is not. The moment they retire, what happens, are they automatic?

SEN. ARROYO. Puwede na.

SEN. DRILON. These are questions which are hanging in my mind also.

SEN. ARROYO. Mr. Chairman, according to Commissioner Domingo, from their point of view, this is just an employment. I mean, just an employment. Just to, you know...

SEN. DRILON. Now, another question, sir. So they are now dual citizens. All right. After the law is passed, they run for public office there. They won, they served, they retired. Do they reacquire Philippine citizenship automatically?



SEN. ARROYO. Can they run for president?

SEN. DRILON. Yeah.

SEN. ARROYO. Or run for senator?

SEN. DRILON. Paano ba 'yan? Anyway, these are the questions I think the TWG would have to consult further.

Yes.

MR. PILANDO. Mr. Chairman, I think in that hypothetical case, there is the intent to return after the public, I mean, the public office or after service in the military.

SEN. ARROYO. But supposing, Mr. Chairman, he ran and lost. He comes back and then run and wins. (laughter)

SEN. DRILON. Seriously speaking I think we can – as a matter of policy, if they are already retired at the time of the passage of the law, there should be no bar to automatic reacquisition. If the act takes place in the future, we can now provide that they would – that act would be a renunciation of Philippine dual citizenship precisely to avoid dual allegiance.

For example, if we pass this bill today and then the election next year he runs for mayor of San Jose, California – San Jose, he is deemed to have lost Philippine citizenship. But if the situation where he ran for mayor of San Jose, California ten years ago and he is no longer there, then automatic reacquisition of Philippine citizenship. That is one way of getting through that. Then, you avoid the question of dual allegiance because you provide for express loss the moment he seeks public office there.

How about appointive office, Joker? Senator Arroyo, what's your view?



SEN. ARROYO. The same I think as elective. There are so many people now who are serving in that appointive position.

SEN. DRILON. Appointive?

SEN. ARROYO. Appointive then. Because my point there, Mr. Chairman, is something like this. I mean, noong araw, hindi ba ang daming Chinese who would like to apply for Filipino citizenship. Nobody, wala na. Nobody wants to apply anymore for Filipino citizenship.

SEN. DRILON. It's the reverse.

SEN. ARROYO. Yes, nag-aagawan tayo noong araw. It was a – Now, this is now a – before it was a sellers, ano?

SEN. DRILON. Sellers market.

SEN. ARROYO. Sellers market. Ngayon, wala. No takers. Now, how can we now be very stringent. Nobody wants to be a Filipino citizen.

SEN. DRILON. We have to force.

THE CHAIRMAN. I think, for example, in the case of – who was this the Director of the Import-Export Bank of the U.S.? Si Mabilangan Halley.

SEN. DRILON. Halley, oo.

THE CHAIRMAN. She is a U.S. citizen. She went through the Commission on Appointments in the Senate, I mean, the U.S. Senate. She was confirmed.../snt



THE CHAIRMAN. ...she was confirmed. She is no longer director now.

SEN. ARROYO. And her closest friends are still here in Manila.

THE CHAIRMAN. Yes, yes, Asst. Sec. Paras.

MR. PARAS. The specific example, the case of Fujimori. When he ran from Peru to Japan, I think Japan made a statement recognizing him as a Japanese.

SEN. ARROYO. Kaya ayaw nang magpa-extradite, 'no?

THE CHAIRMAN. I have no more questions if -- unless there are no more questions, we would like to thank our resource persons. We will proceed with adjournment or suspension muna.

VOICE. Adjournment. Mayroon ka pa bang ibang resource persons?


THE CHAIRMAN. Wala na siguro.

VOICE. Wala na. We can ... and consult them in the future especially the Department of Justice.

THE CHAIRMAN. So, there being no other matters, we would like to thank the resource persons.

This committee hearing is hereby adjourned.

Thank you.



COMMITTEE ON JUSTICE AND HUMAN RIGHTS
CFDRIZ II-3 FEBRUARY 21, 2002 4:01 P.M.

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(The hearing was adjourned at 4:02 p.m.)

.../cfd

A handwritten signature or set of initials, possibly 'A', written in black ink.