

RECORD OF THE SENATE

WEDNESDAY, MAY 29, 2002

RESUMPTION OF THE SESSION

At 4:03 p.m., the session was resumed with the Senate President, Hon. Franklin M. Drilon, presiding.

The President. The session is resumed.

Senator Legarda Leviste. Mr. President.

The President. The Majority Leader is recognized.

Senator Legarda Leviste. I move that we proceed to the Fourth Additional Reference of Business.

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

The Secretary will read the Fourth Additional Reference of Business.

FOURTH ADDITIONAL REFERENCE OF BUSINESS

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

May 22, 2002

The Honorable
FRANKLIN M. DRILON
President of the Senate
GSIS Bldg., Financial Center
Pasay City 1308

Mr. President:

I have been directed to inform the Senate that the House of Representatives on May 21, 2002 elected Representatives Prospero A. Pichay Jr., Rolando G. Andaya Jr., Rodolfo B. Albano, Celso L. Lobregat, Rolex T. Suplico, Magtanggol T. Gunigundo I, Amado T. Espino Jr., Plaridel M. Abaya, Mark "MJ" Jimenez, Juan Miguel F. Zubiri, Jose G. Solis, Eduardo K. Veloso, Isidoro E. Real Jr., Teodoro L. Locsin Jr., Aleta C. Suarez, Carlos M. Padilla, Edgar M. Chatto and J.R. Nereus O. Acosta as conferees should the Senate ask for a conference upon approval of its counterpart version of House Bill No. 4579, entitled

AN ACT INCREASING THE RATE OF BASE PAY OF OFFICERS AND ENLISTED PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES,

which was earlier approved on May 14, 2002.

Very truly yours,

(Sgd.) ROBERTO P. NAZARENO
Secretary General

The President. Referred to the Committee on Rules

The Secretary.

May 23, 2002

The Honorable
FRANKLIN M. DRILON
President of the Senate
GSIS Bldg., Financial Center
Pasay City 1308

Mr. President:

I have been directed to inform the Senate that on even date the House of Representatives passed House Bill No. 254, entitled

AN ACT PROVIDING FOR A SYSTEM OF DISPOSITION OF SEIZED/CONFISCATED ILLEGALLY CUT, GATHERED, REMOVED, AND POSSESSED LOGS, LUMBER, FLITCHES AND OTHER FOREST PRODUCTS, AND FOR OTHER PURPOSES,

to which it requests the concurrence of the Senate.

Very truly yours,

(Sgd.) ROBERTO P. NAZARENO
Secretary General

The President. Referred to the Committee on Environment and Natural Resources

The Secretary.

May 23, 2002

The Honorable
FRANKLIN M. DRILON
President of the Senate
GSIS Bldg., Financial Center
Pasay City 1308

Now in their twilight years, the veterans of our war, who served to protect our country and yet acquired US citizenship, should not be denied the right to remain Filipino citizens and should be spared the inconvenience and cost of being treated as aliens in their own motherland should they opt to visit or stay in the Philippines for good.

To the Filipinos working abroad who, due to unavoidable circumstance, were compelled to adopt the citizenship of their host country, they are our "*Bagong Bayani*." The remittances they have sent to their loved ones in the Philippines have contributed a lot in keeping our country afloat in times of financial crisis. It is not easy for any individual to be separated from the security of one's own homeland and the warmth, comfort and the company of their loved ones but these Filipinos had to make the sublime sacrifice even at the risk of losing their Philippine citizenship in order to provide their families with better lives. Despite their acquisition of foreign citizenship, a vast majority of these Filipinos who have migrated abroad continue to demonstrate their allegiance to the Philippines by maintaining their links to their motherland, sharing whatever gains they may have obtained abroad to their friends and loved ones back home. Their loyalty to the country is likewise manifested in their eager desire to visit the country at every available opportunity.

A Filipino may decide to gain another citizenship but wherever they may be, in their hearts and minds, as well as their loved ones back home, they shall always remain Filipinos.

Considering the sacrifices they had to go through abroad, we should make life easier for them when they return home. They should not be made to suffer the inconvenience of being treated as an alien in their own birthplace.

In a growing world of economic globalization, instant communications and vastly increased personal mobility, dual citizenship facilitates travel, business and work opportunities for individuals. We must not deny our Filipino brothers abroad the opportunities that dual citizenship would bring primarily when this would be for the betterment of their lives which, in reality, would also redound to our country's benefit.

SPECIAL ORDERS

Senator Legarda Leviste. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the

Calendar for Special Orders Committee Report No. 52 on Senate Bill No. 2155, entitled

AN ACT ADOPTING A MAGNA CARTA FOR THE WORKING CHILD PROVIDING FOR STRONGER DETERRENCE AND PROTECTION AGAINST CHILD LABOR AND IMPOSING STIFFER PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the motion is approved.

BILL ON SECOND READING

S. No. 2155 — The Magna Carta for the Working Child

Senator Legarda Leviste. Mr. President, I move that we consider Senate Bill No. 2155 as reported out under Committee Report No. 52.

The Presiding Officer [Sen. Flavier]. Is there any objection? [Silence] There being none, the motion is approved.

Consideration of Senate Bill No. 2155 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 2155, entitled

AN ACT ADOPTING A MAGNA CARTA FOR THE WORKING CHILD PROVIDING FOR STRONGER DETERRENCE AND PROTECTION AGAINST CHILD LABOR AND IMPOSING STIFFER PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES

The following is the whole text of the bill:

Senate Bill No. 2155

AN ACT ADOPTING A MAGNA CARTA FOR THE WORKING CHILD PROVIDING FOR STRONGER DETERRENCE AND PROTECTION AGAINST CHILD LABOR AND IMPOSING STIFFER PENALTIES FOR ITS VIOLATION AND FOR OTHER PURPOSES

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

ARTICLE I

Title, Policies and Principles

SECTION 1. *Short Title.* - This Act shall be known as the "Magna Carta for the Working Child".

SEC. 2. *Declaration of State Policy and Principles.* - It is hereby declared the policy of the State to uphold and secure the best interest of the child in all actions concerning him/her and to ensure the right of the child to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to his/her development.

In pursuit of this policy, the State recognizes the right of the child to be protected from all forms of exploitation, including the right of the child not to be made or suffered to work or perform any undertaking or activity, more particularly if such work hinders the child's education, or is hazardous, or is harmful to the child's health or physical, mental, moral or psycho-social development.

Towards this end, the State shall pursue a national policy designed to ensure the effective abolition and total eradication of child labor and shall take immediate measures for the prohibition and elimination of its worst forms.

ARTICLE II

Definition of Terms

SEC. 3. *Definition of Terms.* - For purposes of this Act, the term:

(a) "Child labor" refers to any work or activity performed by a child and subjects him/her to any form of gainful service or economic exploitation.

(b) "Children" or "Child" refers to a person below eighteen (18) years of age.

(c) "Committee" refers to the National Committee on Child Labor created under this Act.

(d) "Employer" refers to any person, whether natural or juridical, including a government owned or controlled corporation or a sub-contractor, which, for valuable consideration, directly or indirectly procures, uses, avails itself of, contracts out or otherwise derives benefit from the services of a child in any occupation, undertaking, project or activity, whether for profit or not.

(e) "Guardian" refers to any person who, as provided in the Family Code, exercises substitute parental authority or is appointed by the court to exercise substitute parental authority over a child.

(f) "Hazardous work, condition, undertaking or activity" refers to:

1) Any work underground, under water, or at dangerous heights;

2) Any work with power-actuated or explosion-driven tools or machinery, or which involves the manual handling or transport of heavy loads;

3) Any work in an unhealthy environment, which may expose a child to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

4) Any work under particularly difficult conditions, such as long hours of work during the night and without the possibility of returning home each day;

5) Any other type of work or activity which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health or safety of children; or

6) Any of the work listed in the "List of Hazardous Work" which the Secretary of Labor and Employment may prepare, review, update and issue from time to time taking into account the standards and enumeration set forth above.

(g) "Unlawful Recruitment of Children" refers to any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, referring or procuring child workers, promising or advertising for prohibited employment of children, locally or abroad and whether for profit or not, including the following acts:

1) Charging a child or accepting from him, directly or indirectly, any amount or consideration greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or making a child pay any amount or consideration

greater than that actually received by him or her as a loan or advance;

2) Furnishing or publishing falsified document or false notice or information in relation to alleged employment for children;

3) Giving of any falsified document, or false notice, testimony or information or committing any act of misrepresentation for the purpose of securing a license or authority to recruit children under the Labor Code of the Philippines, as amended;

4) Inducing or attempting to induce a child worker already employed to quit his/her employment by offering him/her or for the purpose of offering him/her another work, undertaking project or activity which violates this Act.

5) Substituting or altering, to the prejudice of a child worker, employment contracts approved and verified by the Department of Labor and Employment after the signing or execution thereof by the parties and before its expiration, without the approval of the Department of Labor and Employment.

(h) "Offended party" refers to the child or working child whose rights and privileges under this Act are withheld, not enforced or otherwise violated.

(i) "Offender" refers to any person, including a parent, guardian, employer, public official or government employee violating any provision of this Act.

(j) "Parent" refers to either the biological or adoptive father or mother of a child.

(k) "Public entertainment or information" refers to an artistic, literary, and cultural work, program, show or presentation publicly shown or displayed, including a television show, radio program, movie, theatrical presentation and other forms of media, but does not include those performed in nightclubs, karaoke bars, pubs, hotels, motels, resorts, circus, carnivals, and other similar establishments.

(l) "Sub-contractor" refers to one who has entered into a contract, express or implied, for the performance of a job, work or service with a person who earlier contracted for its performance.

(m) "Worst form of child labor" refers to any of the following:

1) Any form of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including recruitment of children for use in armed conflict;

2) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

3) The use, procuring or offering of a child for illegal or illicit activities, including the production and trafficking of illegal and dangerous drugs and psychotropic substances prohibited under existing laws;

4) Work that is hazardous for the child as herein defined;

5) Work which hinders with the child's education; or

6) Work which, by its nature or the circumstances in which it is carried out, is harmful to the child's health or physical, mental, moral, or psycho-social development.

ARTICLE III

Rights and Privileges of the Working Child

SEC. 4. *Rights of the Working Child.* - Every working child has the right -

(a) To be provided a standard of living that would support his/her education and physical, mental, moral, and psycho-social development;

(b) To protection against all forms of exploitation;

(c) To protection against all forms of neglect, abuse, cruelty, and other conditions prejudicial to his/her well-being;

(d) Not to be made or suffered to work or perform any undertaking or activity, more particularly if such work will hinder his/her education, or is hazardous, or is harmful to his/her health or physical, mental, moral or psycho-social development;

(e) To the protection of his/her well-being and best interest if and when hired, contracted or employed for any work, undertaking, project or activity, as well as to the preservation of his/her remuneration and other income and benefits from his/her efforts; and

(f) At the place of work or activity, to all the rights and privileges afforded to his/her elders therein, including the rights to freely associate with them, join their organizations or form their own for purposes of collectively bargaining for their salaries and benefits.

SEC. 5. *Minimum Age of Employment.* - No child less than fifteen (15) years of age shall be employed, permitted or suffered to work in any job or undertaking except under the following circumstances:

(a) When the child works in a family undertaking directly under the sole responsibility of the parent or guardian who has control and supervision over the activities of the child on that job, activity or undertaking where only members of the family are employed;

(b) When the participation of the child in a job, activity or undertaking is absolutely necessary and essential, or the part, function or role concerned could be performed or undertaken only by a child, such as those parts, functions or roles of children in public information or entertainment activities, undertakings or projects, specifically in cinema, theater, radio, television or in other forms of media: *Provided*, That the contract for the purpose is concluded with parents or guardians with the express agreement of the child and the approval of the Department of Labor and Employment.

The parent, guardian or employer:

(1) Ensures the protection of the health, safety, morals and normal development of the child;

(2) Institutes measures to prevent exploitation of and discrimination against the child; and

(3) Formulates and implements continuing programs for the education, training and skills acquisition of the child.

The employer is further required to secure a work permit from the Department of Labor and Employment before engaging such child in employment.

SEC. 6. *Employment of a Working Child.* - A child fifteen (15) years of age and above may be employed for such number of hours and periods of the day as provided herein: *Provided*, That the participation of the child in the job, undertaking, project or activity does not hinder his/her education or expose the child to sexual activities and violence: *Provided, further*, That no child shall be employed as a model in any advertisement directly or indirectly promoting alcoholic beverages, intoxicating drinks, tobacco and its byproducts: *Provided, finally*, That such employment shall comply with other requirements as may be imposed by the Department of Labor and Employment.

SEC. 7. *Prohibition on Worst Forms of Child Labor.* - No child shall be employed in any worst form of child labor.

SEC. 8. *Wage of the Working Child.* - The working child shall be entitled to at least the prescribed minimum wage and to personally receive his/her wage.

SEC. 9. *Employee Benefits and Obligations.* - The working child shall, for all purposes, be an employee of the employer entitled to receive and be paid the statutory and contractual employee benefits of the other employees of the establishment, undertaking, project or activity.

SEC. 10. *Access to Education and Training.* - In all cases of employment allowed in this Act, the employer shall provide a working child with the appropriate opportunity, as well as necessary support and assistance, to enable him/her to obtain at least primary and secondary education.

SEC. 11. *Provisions for Education for Working Children and Their Parents.* - To ensure and guarantee the access of the working child to education and training, Department of Education shall formulate, promulgate, and implement relevant and effective course designs and educational programs for working children; conduct the necessary training for the implementation of the relevant curriculum for the purpose; ensure the availability of the needed educational facilities and materials; and conduct continuing research and development program for the necessary and relevant alternative education of the working child.

SEC. 12. *Study, Rest and Recreation Time and Area for the Working Child.* - Employers shall provide within their establishment or workplaces areas where the working child can study, rest and have some recreation, and time for such activities.

ARTICLE IV

Hours of Work, Wages and Other Income
of the Working ChildSEC. 13. *Hours of Work of a Working Child* -

(a) No child below fifteen (15) years of age shall be allowed to work between eight o'clock in the evening and six o'clock in the morning of the following day, for more than eight (8) hours a day, and in no case beyond twenty (20) hours a week; and

(b) No child fifteen (15) years of age and above shall be allowed to work between ten o'clock in the evening and six o'clock in the morning of the following day, for more than eight (8) hours a day and in no case beyond forty (40) hours a week.

SEC. 14. *Ownership and Usage of the Working Child's Income*. - The wages, salaries, earning and other income of the working child shall belong to him/her in ownership and shall be set aside primarily for the child's support, education or skills acquisition and secondarily to the collective needs of the family.

SEC. 15. *Parental Authority Over the Working Child's Wages and Property*. - Both parents shall administer the income of the working child or the property acquired through the work of the child. However, in case of the absence or incapacity of either of the parents, the other parent shall be the guardian for this purpose.

SEC. 16. *Bond to Secure Income of the Working Child*. - When the value of the annual income of the working child exceeds P500,000.00, the parents or guardian concerned shall apply for authority to administer and manage the fund with the Regional Trial Court of the province or city where the working child resides and furnish a bond in such amount as the court may determine, but no less than ten percent (10%) of the annual income, to guarantee the performance of the obligations prescribed for general guardians and those imposed by the court.

SEC. 17. *Trust Fund to Preserve Part of the Working Child's Income*. - The parent or guardian of a working child below fifteen (15) years of age shall set up a trust fund for at least twenty-five percent (25%) of the earnings of the child whose wages and salaries from work and other income amount to at least P500,000.00 annually to be administered by a trustee appointed and supervised by the court.

ARTICLE V
Other Prohibited Acts

SEC. 18. *Inducement or Coercion to Work*. - It shall be unlawful for any person to persuade, induce or coerce a child to work or to perform any work, undertaking, project or activity that will hinder his/her education or is hazardous or is harmful to the child's health or physical, mental, moral or psycho-social development.

SEC. 19. *Unlawful Recruitment of Children*. - Unlawful recruitment of children is hereby prohibited.

Unlawful recruitment of children shall be considered an offense involving economic sabotage when committed in large scale, or against three (3) or more children, or by a syndicate or a group of three (3) or more persons conspiring and/or confederating with one another in carrying out the illegal act.

ARTICLE VI

Prosecution for Violations of this Act

SEC. 20. *Who May File a Complaint*. - Complaints for violations of this Act may be filed by any of the following:

- (a) The offended party or the working child, his/her parents or guardian, or any of his/her ascendant or collateral relative within the third degree of consanguinity or affinity;
- (b) Any officer, social worker or representative of an accredited non-government organization or a licensed child-caring institution;
- (c) Any officer or social worker of the Department of Social Welfare and Development or of the local government unit's social welfare development office;
- (d) Any officer of the Department of Labor and Employment, Philippine National Police or National Bureau of Investigation;
- (e) The Chairperson of the barangay where the child is employed or is residing; or
- (f) At least three (3) concerned responsible citizens of the municipality or city where the violation occurred.

SEC. 21. *Jurisdiction.* - The Family Courts shall have original jurisdiction over all cases involving offenses punishable under this Act: *Provided*, That in cities or provinces where there are no Family Courts yet, the Regional Trial Courts and Municipal Trial Courts shall have concurrent jurisdiction.

The preliminary investigation of cases filed under this Act shall be terminated within a period of thirty (30) days from the date of filing.

Where the preliminary investigation is conducted by a prosecuting officer and a *prima facie* case is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. If the preliminary investigation is conducted by a judge and a *prima facie* case is found to exist, the corresponding information shall be filed by the proper prosecuting officer within forty-eight (48) hours from the date of receipt of the records of the case.

Trial cases under this Act shall be terminated by the Court not later than ninety (90) days from the date of filing of the information. Decision on said cases shall be rendered within a period of fifteen (15) days from the date of submission of the case.

SEC. 22. *Plea-bargaining Provision.* - Any person charged under any provision of this Act where the impossible penalty is *reclusion perpetua* to death shall not be allowed to avail of the provision on plea-bargaining.

SEC. 23. *Access to Immediate Legal, Medical and Psycho-social Services.* - The working child shall have the right to free legal, medical and psycho-social services to be provided by the State.

SEC. 24. *Protective Custody of the Child.* - Upon the filing of the complaint for any violation of this Act, the offended party shall immediately be placed under the protective custody of the Department of Social Welfare and Development or any accredited and deputized non-government organizations.

In the performance of his/her functions hereunder, the officer of the Department of Social Welfare and Development or the child-caring agency under the control and supervision of the Department of Social Welfare and Development or any officer or person having legal custody over the child shall be free from any administrative, civil or criminal liability.

SEC. 25. *Confidentiality.* - Any and all person, whether juridical or natural, shall withhold from the

public information on the personal circumstances of the offended party until the court which acquires jurisdiction over the case authorizes release of such information as may deem necessary and advisable.

In any event, it shall be unlawful for any person, organization or entity to cause undue publicity of any information on the offended party or any case involving any violation of this Act which results in the moral degradation and suffering of the offended party.

ARTICLE VII

The National Committee on Child Labor

SEC. 26. *National Committee on Child Labor.* - There is hereby created a National Committee on Child Labor.

SEC. 27. *Composition of the National Committee on Child Labor.* - The following shall be the members of the National Committee on Child Labor:

- a) The Secretary of the Department of Labor and Employment (DOLE) or his/her representative not lower in rank than an Undersecretary, as its Chairperson;
- b) The Secretary of the Department of Social Welfare and Development (DSWD) or his/her representative, as its Vice-Chairperson;
- c) The Secretary of the Department of Education or his/her duly authorized representative;
- d) The Secretary of the Department of Justice or his/her duly authorized representative;
- e) The Secretary of the Department of Health or his/her duly authorized representative;
- f) The Secretary of the Department of the Interior and Local Government or his/her duly authorized representative;
- g) The Director General of the Philippine Information Agency or his/her duly authorized representative;
- h) Director General of the Philippine National Police or his/her duly authorized representative;
- i) Two representatives each for the employers' organizations, the workers' organizations, the non-governmental organizations on the working

children and the working children's organizations: *Provided*, That the membership and tenure of said organizations shall be in accordance with the criteria and guidelines set forth by the Committee members as herein mentioned.

SEC. 28. *The Functions of the National Committee on Child Labor.* - The Committee shall have the following powers:

(a) To promote the enforcement of this Act and relevant provisions of the Convention on the Rights of the Child, the ILO Conventions 138 and 182 and other relevant ILO Conventions and treaties, as well as the other applicable national legislation, rules, regulations and standards on child labor;

(b) To establish, coordinate, monitor, and assess programs and standards for the eventual elimination of child labor and the protection of working children;

(c) To coordinate multi-sectoral action at the regional and local levels to respond to the needs of working children;

(d) To represent the Philippines in supporting and participating in the worldwide movement against child labor;

(e) The Secretary of Labor and Employment shall create a coordinative mechanism at the national, regional or local levels, which will include other agencies/organizations in the public and private sectors, to support the Committee in the performance of its functions.

SEC. 29. *The National Committee on Child Labor Secretariat.* - The Bureau of Women and Young Workers of the Department of Labor and Employment shall be the Secretariat of the National Committee on Child Labor.

ARTICLE VIII Miscellaneous Provisions

SEC. 30. *Child's Health Requirement.* - No employer shall accept any child for work or employment, activity, undertaking or project as allowed in this Act without such child presenting a medical certificate that he/she is fit for the employment.

During the period of the child's employment or engagement in work, the employer shall ensure, through annual medical examination by competent health

authority, that such child is fit to continue employment or engagement in work.

SEC. 31. *Proof of Age Requirements.* - No employer shall accept any child for work or employment as allowed in this Act without such child presenting a certified true copy of his/her birth certificate or baptismal certificate or an affidavit attesting to the child's age for the purpose of delayed registration of birth.

SEC. 32. *The Child's Employment Record.* - The employer, upon request of the child or his/her parent or guardian, shall furnish the child's employment record.

ARTICLE IX Penal Provisions

SEC. 33. *Penalty for Illegal Recruitment of Children Constituting Economic Sabotage and for the Worst Forms of Child Labor Involving Children Below Fifteen (15) Years of Age.* - The penalty of life imprisonment and a fine of One Million Pesos (P1,000,000.00) shall be imposed upon any person found guilty of --

- a) Illegal recruitment of children constituting economic sabotage under Sec. 20 of this Act; and
- b) The worst forms of child labor under Sec. 7 and as defined in Sec. 3, Par. (m), Sub-Pars. (1) to (4), likewise in violation of the minimum age requirement under Sec. 5 of this Act.

The penalty of imprisonment from twelve (12) years and one (1) day to twenty years and a fine of not less than One Hundred Thousand Pesos (P100,000.00) but not more than One Million Pesos (P1,000,000.00), shall be imposed upon any person found guilty of illegal recruitment of children not constituting economic sabotage.

SEC. 34. *Penalty for Violations of Minimum Age Requirement, Commission of Worst Form of Child Labor, and Inducement or Coercion in Relation Thereto.* - The penalty of imprisonment from six (6) years one (1) day to twelve (12) years or a fine of not less than Fifty Thousand Pesos (P50,000.00) but not more than Five Hundred Thousand Pesos (P500,000.00), or both such imprisonment and fine, at the discretion of the court, shall be imposed upon any person found guilty of --

- a) Employing a child below the fifteen (15) years of age in violation of the provisions of Sec. 5 of this Act;

- b) The worst forms of child labor under Sec. 7 and as defined in Sec. 3, Par. (m), Sub-Pars. (5) and (6) of this Act;
- c) Apprenticeship of a child in a job, undertaking, project or activity that hinders his/her education or exposes the child to sexual activities and violence under Sec. 6 of this Act; and
- d) Inducement or coercion of a child to work in violation of Sec. 19 of this Act.

SEC. 35. *Penalty for Other Violations of this Act.*

- The penalty of imprisonment from six (6) months and one (1) day to six (6) years or a fine of not less than Ten Thousand Pesos (P10,000.00) but not more than One Hundred Thousand Pesos (P100,000.00), or both such imprisonment and fine, at the discretion of the court, shall be imposed upon any person found guilty of

- a) Violations of the rights of the working child under Sec. 4 of this Act not otherwise penalized elsewhere in this Act;
- b) Violation of the provisions of Secs. 8 and 9 of this Act on the minimum wage and employee benefits for the working child;
- c) Violation of the provisions of Sec. 10 of this Act on access to education and training for the working child;
- d) Violation of the provisions of Sec. 12 of this Act on the required study, rest and recreation time and area for the working child;
- e) Violation of the provisions of Sec. 14 of this Act regulating the hours of work of the working child;
- f) Violation of the provisions of Sec. 23 of this Act on confidentiality of personal information regarding the working child involved in complaints prosecuted in courts;
- g) Violation of the provisions of Sec. 29 of this Act on the required presentation of medical certificate and annual medical examination of the working child;
- h) Violation of the provisions of Sec. 30 of this Act on the requirement for proof of age of the working child; and

- i) Violation of the provisions of Sec. 31 of this Act on access to the working child's employment record.

SEC. 36. *Community Service for Parents Violating the Provisions of This Act.* - Any parent or guardian found guilty of violating the provisions of this Act shall, in addition to the prescribed penalties applicable, be further required to render community service of one (1) month and one (1) day to one (1) year: *Provided*, That the maximum length of community service shall be imposed on parents or guardians who have repeatedly violated the provisions of this Act.

SEC. 37. *Penalty for Inaction of Public Officials and Employees.* - Any public official or employee found to have failed to act on reports and complaints on violations of the provisions of this Act shall be prosecuted and imposed the appropriate penalties under Republic Act No. 6731, the Code of Ethics for Public Officials and Employees.

SEC. 38. *Common Penal Provisions.* --

a) The penalty provided under this Act shall be imposed in its maximum period if the offender has been previously convicted under this Act.

b) The penalty provided herein shall be imposed in its maximum period when the perpetrator is an ascendant or step parent or collateral relative within the second degree of consanguinity or affinity or a manager or owner of an establishment that has no license to operate or its license has expired or has been revoked.

c) When the offender is a foreigner, he shall be deported immediately after service of sentence and forever barred from entry to the country.

d) The penalties provided in this Act shall be imposed in its maximum period, if the offender is also a public official or employee who, upon final judgment, shall likewise be dismissed from the government service.

e) If the violation is committed by a corporation, partnership or association, the officer or employee thereof who is responsible for the violation of this Act shall suffer the penalty imposed in its maximum period.

f) In all instances, the convicted offender shall undergo a community service program, developed and administered by the Department of Justice, geared

towards child-friendly activities for the proper development of children.

g) The Secretary of Labor and Employment or his/her authorized representative may, after due notice and hearing, order the closure of any business, firm or establishment if the violation of any provision of this Act has resulted in the death, insanity or serious physical injuries of a child employed in such establishment or the firm or establishment has violated any of the provisions of this Act for at least two (2) times.

ARTICLE X
Final Provisions

SEC. 39. *Rules and Regulations.* - The Secretary of Labor and Employment shall promulgate the necessary rules and regulations to implement the provisions of this Act, in consultation with concerned public and private sectors, within six (6) months after its effectivity.

Such rules and regulations shall take effect upon their publication in two (2) national newspapers of general circulation.

SEC. 40. *Appropriations.* - Funds needed for the initial implementation of this Act shall be taken from the budget of the Department of Labor and Employment. Thereafter, the appropriations of the same shall be included in the General Appropriations Act for the year following its enactment.

The fine imposed by the Court shall be treated as a cash fund, administered by the Department of Labor and Employment and disbursed for the needs, including the costs on rehabilitation and reintegration of the working children who are victims of the violations of this Act.

SEC. 41. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SEC. 42. *Repealing Clause.* - All laws, decrees, or rules inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 43. *Effectivity Clause.* - This Act shall take effect upon completion of its publication in at least two (2) national newspapers of general circulation.

Approved,

Senator Legarda Leviste. Mr. President, for the sponsorship speech, I move that we recognize the sponsor, the acting chairman of the Committee on Labor, Employment and Human Resources Development, Sen. Ramon B. Magsaysay Jr.

The Presiding Officer [Sen. Flavier]. Sen. Ramon B. Magsaysay Jr. is recognized.

SPONSORSHIP SPEECH OF SENATOR MAGSAYSAY JR.

Senator Magsaysay. Thank you, Mr. President.

The title of my sponsorship speech is "The Worker Is A Child."

Mr. President, my colleagues in the Senate:

As acting chairman of the Senate Committee on Labor, Employment and Human Resources Development, I have the honor of sponsoring the legislation that would provide the framework for the abolition of child labor in the Philippines via Senate Committee Report No. 52, entitled "The Magna Carta For The Working Child."

The proposed measure is a consolidation of various bills and a resolution filed by our colleagues in the Senate: namely, (1) Senate Bill Nos. 602 and 750, by Senator Legarda Leviste; (2) Senate Bill No. 1009, by Senator Villar; (3) Senate Bill No. 1207, by Senator Cayetano; (4) Senate Bill Nos. 1377 and 1394, by Senator Ople; (5) Senate Bill No. 1882, by Sen. Tessie Aquino-Oreta; and Proposed Senate Resolution No. 12, by Senator Legarda Leviste.

But before I proceed to discuss the merits of this measure, Mr. President, allow me to show an audio-visual presentation which features briefly the situation of children involved in prostitution, domestic work, deep-sea fishing, mining and quarrying, sugar plantations and pyrotechnics, all of which are considered as the worst forms of child labor in the country.

With this, Mr. President, may I ask the permission of this Chamber to use the power point to view the 30-second.

The Presiding Officer [Sen. Flavier]. Please proceed.

[At this juncture, a 30-second play on child labor was shown.]

Senator Magsaysay. The 30-second is being shown presently, Mr. President.

The Presiding Officer [Sen. Flavier]. I see.

Senator Magsaysay. Thank you, Mr. President. I think, they thought it was a brownout, then they put on the lights instead of putting it off. But we can have that another time, the 30-second. That is just to show how the children are being exploited by their elders.

The Child Labor Phenomenon

Mr. President, the phenomenon of child labor is not only limited to our country but exists worldwide. Based on latest UNICEF data, around 250 million children are estimated to be working under exploitative conditions in a global scale, and 50 million of them are involved in the worst forms of child labor.

For a long time now, the prevalence of child labor in the Philippines has been a constant source of concern not only for the government but also for the various sectors in our society. While there is an absence of a comprehensive data as to the total number of working children, the UNICEF data indicate that the number of Filipino child workers is assessed to be at 5 million children within the 5-14 age group. The same data indicate that almost 4 million working children reside in the rural areas. The Bureau of Women and Young Workers placed the number of working children to range somewhere between 5 million to 7 million nationwide, Mr. President.

In addition, the results of the 2001 national survey on working children show that there are now 4 million working children in the country aged five to 17 years old as against 3.7 million in 1998, a big increase. Most of them are unpaid, unskilled workers in family farms. Others work in shops, or sweatshops, or as vendors in forestry or fisheries. Out of the 4 million, 2.4 million of the working children face physical, biological and chemical hazards. There are also those who suffer injuries and work-related illnesses such as body aches and skin diseases. Said data further indicate that one (1) in every four (4) children work in the evening or during nighttime.

Mr. President, the statistics on child labor are endless. But in the end, the question boils down as to what this Congress can do to address the issue.

Let me emphasize though that this proposed measure does not intend to teach the children to be lazy or to discourage them the value of work. Neither will it teach them to depend on their parents for life, but basically, for children to simply enjoy their childhood.

There are those who speculate, Mr. President, that poverty itself is the reason for the emergence of child labor. Because of poverty, child labor is resorted to as one of several household-coping strategies by Filipino families who view children as potential

income providers and as part of the family support system. In other words, the entry of children into the labor market is viewed as part of the household's survival strategies. But I firmly believe, Mr. President, that poverty is too simple an excuse for child labor. All forms of child labor are unacceptable infringement of fundamental human rights and must, therefore, be immediately addressed.

Related Laws on Child Labor

As a response to the extent and magnitude of child labor in the country, the Philippine government, particularly the Legislative branch has not been remiss in its duty to undertake appropriate legislative measures to address this issue.

In 1974, Presidential Decree No. 603, otherwise known as "The Philippine Child and Youth Welfare Code" was enacted to serve as the framework for the promotion of the welfare of the Filipino children. This was during the time of then secretary of Labor, Blas F. Ople. This law defines the rights of the child, enumerates the liabilities of parents, and defines the role of other institutions in promoting the welfare of Filipino children in general.

In July 1992, Republic Act No. 7610 was signed into law providing for stronger deterrence and special protection against child abuse. In November 1993, Republic Act No. 7658 was enacted to prohibit the employment of children below 15 years of age.

The Philippines is a signatory to various international anti-child labor agreements like the ILO Convention 138, which outlined the minimum age for admission to employment and the ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labor.

Sadly, Mr. President, there are gaps in existing laws and policies on child labor that need to be addressed immediately by crafting a policy measure that will provide stronger deterrence in the employment of children in exploitative undertakings.

It is for this purpose that Senate Committee Report No. 52, entitled "The Magna Carta for the Working Child," is being proposed.

Salient Features of the Bill

Under the said measure, a "child" is defined as a person who is below 18 years of age. In the same light, "hazardous work," shall refer to any work underground, dangerous heights; any work with explosive-driven tools, work in unhealthy environment exposing the child to hazardous substances, long hours of work during the night, and those that will endanger the health and safety of the child.

Among the rights accorded to a child under the proposed measure include:

- * The right of a working child, among others, to be provided a standard of living that would support his/her education and total development;
- * Protection from exploitation;
- * Safety against all forms of neglect, abuse, cruelty and other conditions prejudicial to his/her well-being;
- * Not to be made to suffer to work or perform any undertaking that will hinder his/her growth or that will be harmful to his/her development; and
- * Preservation of his remuneration and other income and benefits from his efforts; and right for collective bargaining for their salaries and benefits.

Mr. President, the proposed measure seeks the creation of a National Committee on Child Labor to establish, coordinate, monitor, and assess the programs and standards to rid the society of the worst forms of child labor.

Another significant aspect of this proposed measure is the provision which requires parents or guardians to do community service for the period of one (1) month and one (1) day to one (1) year for parents found guilty of violating the provisions of this Act. This framework was patterned after the US model of community service principle.

Mr. President, esteemed colleagues, the problem of child labor cannot be solved overnight, and neither will the passage of the bill completely wipe out child labor in our country, but I believe it is a step in the right direction. The Magna Carta for the Working Child is a blueprint for the elimination of child labor, particularly on its worst forms. The fight against child labor should be comprehensive so that it can have a lasting positive change in society and the world.

Allow me finally to end this sponsorship speech by borrowing the wisdom of our former beloved colleague, the late Senate President Marcelo "Celing" Fernan who was a staunch anti-child labor advocate. He said and I quote, "Let us not suffer our children to be deprived forever of a precious gift that has been given us but which for them will never return—that is childhood."

Thank you and good afternoon, Mr. President.

Senator Legarda Leviste. Mr. President.

The Presiding Officer [Sen. Flavie]. The Majority Leader is recognized.

**MANIFESTATION OF SENATOR LEGARDA LEVISTE
(That Her Cosponsorship Speech on S. No. 2155 Be
Inserted Into the Record)**

Senator Legarda Leviste. Mr. President, we thank the sponsor and we wish to also request that this representation's cosponsorship speech be inserted into the *Record*.

The Presiding Officer [Sen. Flavie]. So noted.

The following is the written sponsorship speech of Senator Legarda Leviste:

**SPONSORSHIP SPEECH OF SENATOR
LEGARDA LEVISTE**

Mr. President:

As a mother, I look at children with affection, buoyed by their innocence, and driven by the endless curiosity on how they would develop in the future—as productive and responsible members of society. Just like any parent, I wish nothing less than the best for my children, and being in public office, there emerges a much bigger challenge for I have also learned to accept other children as my own.

I have been exposed to the reality and the extent of the adverse effects of child labor on the innocent minds and fragile bodies of children.

It was in 1999 when I first learned of Joseph Bosito, a child miner in the gold mining community of Paracale, Camarines Norte. Then 12-year old Joseph was featured in a documentary episode on Filipino child laborers entitled "*Mga Batang Trabahador*" in my TV program then. This episode triggered an outpouring of support for Joseph and other child laborers who were similarly situated.

The problem of child labor is a most complex one for it holds almost every aspect of our society responsible—negligent oftentimes helpless parents, exploitative employers, the lack of protection and social support, and government agencies that have remained remiss in their duties in ensuring that the rights of children are safeguarded.

The recently concluded 2001 National Survey on Working Children conducted by the National

Statistics Office reveals that about one in six Filipino children has to work to support his or her family.

The number of working children surveyed from October 2000 to September of 2001 did not show any development from the survey done five years ago: Four million of 25 million Filipino children as young as five years up to 17 years of age were identified as "economically active." The survey also shows that seven out of ten children work in rural areas, with Regions IV, VII, VIII, V, and XI having the highest share of working children.

Mr. President, it is quite disturbing that an estimated 1.1 million children face physical hazards; 221,000 do "heavy physical work," 942,000 children complained that they suffered from work-related injuries and 754,000 said they experienced work-related illnesses like body pains and skin diseases.

But I believe, more than these physical sufferings, the greatest injustice inflicted on our working children is the fact that they are deprived of their right to education.

Of the 4 million working children, only 65.9 percent attended school, at least during the time of the survey. One point two million children said their schooling suffered due to work and two out of five children dropped out of school.

The problem of child labor is so complex, and deserves a solution that ought to be both comprehensive and workable.

No less than the Philippine Constitution provides that, "The State shall defend the right of children to assistance, including proper care and nutrition, special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development." Apart from this constitutional provision, Congress has enacted two significant laws as early as 1992, namely Republic Act No. 7610 or the "Special Protection of Children Against Child Abuse, Exploitation, and Discrimination Act" and its amendatory law, Republic Act No. 7658.

However, Mr. President, we believe that there is still a need for a more comprehensive measure that would effectively address the very root of the problem concerning child labor in this country.

Senate Bill No. 2155 exemplifies our commitment to the United Nations Convention on the Rights of the

Child, International Labour Organization or ILO Convention 138 on Children's Minimum Age for Admission to Employment and ILO Convention 182 on the Elimination of the Worst Forms of Child Labor.

While this bill allows the employment of children to a certain extent, it should be emphasized that the authors of the bill and the technical working group that worked on this measure made sure that they will come up with a restrictive law by making it extremely difficult for employers to hire children, and by ensuring that the working children are accorded all the rights, privileges, and benefits that are due them.

The proposed "Magna Carta for the Working Child" is a measure which, we believe and hope, will squarely address the continuous rise in the number of working children and their worsening conditions in the workplace.

The State, the private sector, educational institutions, the church, local government, and each and every one of us should all work together for its passage now, for we are dealing with the future of our children.

Let us give our children toys not tools for work. Let us allow them to play not toil. Let us keep them innocent, not ignorant. Let us make them learn and flourish, not stagnate and deteriorate.

These children will be children only once. We owe our future to our children and we should act before it is too late.

Thank you, Mr. President.

Senator Legarda Leviste. Senator Villar also has made a reservation. He is not present today. He will probably deliver his cosponsorship speech at a later date.

The Presiding Officer [Sen. Flavio]. So noted.

SUSPENSION OF CONSIDERATION OF S. NO. 2155

Senator Legarda Leviste. Mr. President, I move that we suspend consideration of Senate Bill No. 2155.

The Presiding Officer [Sen. Flavio]. There is a motion to suspend consideration of Senate Bill No. 2155 under Committee Report No. 52. Is there any objection? [*Silence*] There being none, the motion is approved.