



REPUBLIC OF THE PHILIPPINES  
**Senate**  
Pasay City

# Journal

**SESSION NO. 44**  
Monday, December 6, 2010

**FIFTEENTH CONGRESS**  
**FIRST REGULAR SESSION**

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**CALL TO ORDER**

At 3:22 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

**PRAYER**

Sen. Alan Peter "Compañero" S. Cayetano led the prayer, to wit:

Lord Father God, we humble ourselves before You.

Lord, as we enter the month of December, we remember the ultimate sacrifice that You allowed Your son to be sacrificed and to die for us.

We ask, Lord, that we recognize that public service is all about sacrifice. We ask that we do all we can as we deliberate not only on the budget but other important measures.

Lord, yesterday, there were seven fire alerts all over Metro Manila and there is such a need for emergency equipment like fire trucks and other equipment for our firemen.

We realize, Lord God, that every day as we meet here in the Senate, there is so

much that our people need. We ask that we will be able to give them more. We ask that in these next days of our session, we will remember the ultimate sacrifice that our Lord gave us and that we will be able to do better.

Please bless the leadership of our country, from the President down to the barangay captains and *kagawads*.

Please bless every member of this Chamber as we just give ourselves to You and ask for Your forgiveness, for Your love and mercy.

In the name of the Father, the Son and the Holy Spirit.

Amen.

**NATIONAL ANTHEM**

The Senate Choir led the singing of the national anthem and thereafter rendered the song, entitled "*Noche Buena*."

**ROLL CALL**

Upon direction of the Chair, the Acting Secretary, Atty. Edwin B. Bellen, called the roll, to which the following senators responded:

*m* *Ad*

Angara, E. J.	Legarda, L.
Arroyo, J. P.	Marcos Jr., F. R.
Cayetano, A. P. C. S.	Osmena III, S. R.
Drilon, F. M.	Pangilinan, F. N.
Enrile, J. P.	Recto, R. G.
Ejercito Estrada, J.	Revilla Jr., R. B.
Escudero, F. J. G.	Sotto III, V. C.
Guingona III, T. D.	Zubiri, J. M. F.
Honasan, G. B.	

With 17 senators present, the Chair declared the presence of a quorum.

Senator Cayetano (P) was on official mission abroad.

Senator Villar was likewise on official mission.

Senator Defensor Santiago was on sick leave.

Senators Lacson and Lapid were absent.

Senator Trillanes was unable to attend the session as he was under detention.

#### **DEFERMENT OF THE APPROVAL OF THE JOURNAL OF SESSION NO. 42**

Upon motion of Senator Sotto, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 42 to a later day.

#### **APPROVAL OF THE JOURNAL OF SESSION NO. 43**

Upon motion of Senator Sotto, there being no objection, the Body dispensed with the reading of the Journal of Session No. 43 (December 1, 2010) and considered it approved.

#### **REFERENCE OF BUSINESS**

The Acting Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

##### **BILLS ON FIRST READING**

Senate Bill No. 2615, entitled

**AN ACT PROVIDING FOR COMPENSATION TO THE VICTIMS OF HUMAN**

**RIGHTS VIOLATIONS DURING THE REGIME OF FORMER PRESIDENT FERDINAND MARCOS, DOCUMENTATION OF SAID VIOLATIONS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

Introduced by Senator Osmeña III

**To the Committees on Justice and Human Rights; and Finance**

Senate Bill No. 2616, entitled

**AN ACT BANNING THE CATCHING, SALE, PURCHASE, POSSESSION, TRANSPORTATION, IMPORTATION AND EXPORTATION OF ALL SHARKS AND RAYS OR ANY PART THEREOF IN THE COUNTRY**

Introduced by Senator Legarda

**To the Committees on Agriculture and Food; and Environment and Natural Resources**

Senate Bill No. 2617, entitled

**AN ACT STRENGTHENING THE POWERS AND FUNCTIONS OF THE COMMISSION ON HUMAN RIGHTS AND CRIMINALIZING FOR THE PURPOSE HUMAN RIGHTS VIOLATIONS**

Introduced by Senator Villar

**To the Committees on Justice and Human Rights; Civil Service and Government Reorganization; and Finance**

Senate Bill No. 2618, entitled

**AN ACT STRENGTHENING THE PHILIPPINE PUBLIC SAFETY COLLEGE SYSTEM AS A PREMIER EDUCATIONAL INSTITUTION FOR TRAINING, HUMAN RESOURCES DEVELOPMENT AND CONTINUING EDUCATION OF ALL POLICE, FIRE AND JAIL PERSONNEL, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES**

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Introduced by Senator Angara

**To the Committees on Public Order and Dangerous Drugs; Education, Arts and Culture; Ways and Means; and Finance**

Senate Bill No. 2619, entitled

AN ACT STRENGTHENING THE RULES ON THE PROPER USE AND DISPLAY OF OUR NATIONAL SYMBOLS AND THE RENDITION OF THE NATIONAL ANTHEM, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 8491, OTHERWISE KNOWN AS THE "FLAG AND HERALDIC CODE OF THE PHILIPPINES," AND FOR OTHER PURPOSES

Introduced by Senator Escudero

**To the Committee on Constitutional Amendments, Revision of Codes and Laws**

#### RESOLUTIONS

Proposed Senate Resolution No. 301, entitled

RESOLUTION DIRECTING THE COMMITTEE ON PEACE, UNIFICATION AND RECONCILIATION TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NEEDS AND CONCERNS OF COMMUNITIES MOST AFFECTED BY THE STILL UNRESOLVED CONFLICT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES (GRP) AND THE MORO ISLAMIC LIBERATION FRONT (MILF)

Introduced by Senator Guingona III

**To the Committees on Peace, Unification and Reconciliation; and National Defense and Security**

Proposed Senate Resolution No. 302, entitled

RESOLUTION URGING THE COMMITTEES ON AGRICULTURE AND FOOD; TRADE AND COMMERCE;

AND ECONOMIC AFFAIRS TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE CONDITION OF FILIPINO COCONUT FARMERS, THE PROBLEMS THEY ENCOUNTER AND THE GOVERNMENT'S EFFORTS TO RESOLVE THE SAME FOR THE BENEFIT AND GROWTH OF THE COCONUT INDUSTRY

Introduced by Senator Villar

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

#### COMMUNICATION

Letter from the *Bangko Sentral ng Pilipinas*, dated 11 November 2010, furnishing the Senate with certified true copies of BSP Circular Nos. 696, 697, and 698, series of 2010, dated 29 October and 5 November 2010, respectively, in compliance with Section 15(a) of Republic Act No. 7653 (The New Central Bank Act).

**To the Committee on Banks, Financial Institutions and Currencies**

#### ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Sotto acknowledged the presence in the gallery of Mayor Lito Tanjuatco of Tanay, Rizal, and students from the College of Economics and Management of the University of the Philippines-Los Baños.

Senate President Enrile welcomed the guests to the Senate.

#### ADDITIONAL SENATE CONFEREE

Upon his motion, there being no objection, the Chair designated Senator Sotto as additional member of the Senate panel in the Bicameral Conference Committee on House Bill No. 3101 (2011 General Appropriations Act).

#### ANNOUNCEMENT

At this juncture, Senator Sotto announced that the Conference Committee on House Bill No. 3101 will hold its first meeting at ten o'clock, tomorrow

*Handwritten initials*

morning, December 7, 2010, at the Philippine Coconut Authority Building in Quezon City.

*At this juncture, the Senate President relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.*

**COMMITTEE REPORT NO. 7  
ON SENATE BILL NO. 78  
(Continuation)**

Upon motion of Senator Sotto, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 78 (Committee Report No. 7), entitled

AN ACT PROVIDING FOR ADDITIONAL BENEFITS AND PROTECTION TO HOUSEHELPERS THEREBY AMENDING FOR THE PURPOSE, ARTICLES 141, 142, 143, 148 AND 151 OF CHAPTER III OF P.D. 442, AS AMENDED, OTHERWISE KNOWN AS "THE LABOR CODE OF THE PHILIPPINES."

Senator Sotto stated that the period of amendments had already been closed and clean copies of the bill have been distributed to the senators. He manifested that unless there are comments on the clean copy that incorporated the approved amendments, he would move for the approval of the bill on Second Reading.

**INQUIRY OF SENATOR ARROYO**

Asked by Senator Arroyo why he has championed the cause of househelpers, Senator Ejercito Estrada replied that they have to be respected and loved because they belong to one of the marginalized sectors of the society.

**APPROVAL OF SENATE BILL NO. 78  
ON SECOND READING**

Submitted to a vote, there being no objection, Senate Bill No. 78 was approved on Second Reading, as amended.

**SUSPENSION OF CONSIDERATION  
OF SENATE BILL NO. 78**

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

**SPECIAL ORDER**

Upon motion of Senator Sotto, there being no objection, the Body approved the transfer of Committee Report No. 9 on Senate Bill No. 455 from the Calendar for Ordinary Business to the Calendar for Special Orders.

**COMMITTEE REPORT NO. 9  
ON SENATE BILL NO. 455**

Upon motion of Senator Sotto, there being no objection, the Body considered, on Second Reading, Senate Bill No. 455 (Committee Report No. 9), entitled

AN ACT QUALIFYING THE KILLING OF MEMBERS OF BROADCAST AND PRINT MEDIA ON THE OCCASION OF THE EXERCISE OF THEIR FUNCTIONS AS SUCH, AS A CRIME OF MURDER PUNISHABLE UNDER ART. 248 OF THE REVISED PENAL CODE, AS AMENDED.

Pursuant to Section 67, Rule XXIII of the Rules of the Senate, with the permission of the Body, upon motion of Senator Sotto, only the title of the bill was read without prejudice to the insertion of its full text into the Record of the Senate.

Thereupon, the Chair recognized Senator Escudero, Sponsor of the measure.

**SPONSORSHIP REMARKS  
OF SENATOR ESCUDERO**

Senator Escudero stated that the bill was authored by Senators Ejercito Estrada and Legarda.

He requested that the explanatory note to the original bill filed by Senator Ejercito Estrada be inserted into the record as part of his sponsorship speech.

Thereafter, the Chair recognized Senator Legarda for her cosponsorship speech.

**COSPONSORSHIP SPEECH  
OF SENATOR LEGARDA**

In cosponsoring the measure, Senator Legarda delivered the following speech:



I thank the good Sponsor, the Chairman of the Committee on Justice and Human Rights, for hearing this measure and prioritizing it.

This Representation, indeed, wishes to cosponsor this measure that would qualify the killing of members of broadcast and print media in the performance of their duties as a crime of murder.

One year has passed since the ruthless and gruesome killing of 55 individuals, including 32 journalists in Maguindanao. This is so far the worst massacre of media practitioners in our history and we would not want a repeat of this incident ever again.

In fact, the Maguindanao massacre has been attributed to our decline in the 2010 World Press Freedom Index by the Reporters Without Borders. From our 2009 rank of 122, we suffered a heavy fall, 34 notches down this year, as we ranked 156 out of 178 countries included in the list.

A study by the Center for Media Freedom and Responsibility shows that, sans the victims of the Maguindanao massacre, there have been 28 journalists and media practitioners killed in the line of duty since 2001.

These numerous cases have tarnished our country's state of press freedom, supposedly one of the freest in the world.

As a former journalist of 25 years, I cannot let this cycle of violence go on. We cannot sit idly by and watch our country, which is a democratic state, be branded as a nation with a media's freedom miscurtailed by silencing the messengers of news and the seekers of truth. We have to put a stop to the killing of journalists and media practitioners. We must protect them while in a lawful exercise of their functions. And we can be instrumental in achieving that through the immediate passage of this measure.

#### REMARKS OF SENATOR ESCUDERO

Senator Escudero stated that the Committee on Justice and Human Rights filed Committee Report No. 9 in lieu of the original bills which were filed by Senators Ejercito Estrada and Legarda. He explained that the bills seek to include among the list of qualifying circumstances that will elevate a particular act of killing a human being to the level of murder should it be committed against a media person in connection with the lawful exercise of his or her duties and functions. In addition to the freedom of the press clause enshrined in the Constitution, Senator Escudero stressed that the media perform

the invaluable and important function of informing the people about what is going on in the government, the country and around the world.

#### REMARKS OF SENATOR ARROYO

Senator Arroyo informed the Body that in an informal discussion with Senator Escudero, he raised the issue on the constitutionality of the bill because, to him, it would give members of the media a special category in the sense that when they are killed while in the performance of their profession, the crime becomes murder. He said that he expressed his concern that if the bill becomes law, members of other professions would also ask for the same privilege and Congress cannot deny them. To address his concern, Senator Arroyo stated that the Sponsor told him of the amendment to Section 1 which qualifies that it is only when the person killed is a member of the broadcast and print media, and committed on the occasion of the lawful exercise of his duties and functions, that the act will be considered murder, a qualification that, according to Senator Escudero, would meet the test of non-class legislation. Senator Arroyo then expressed support for the bill.

Senator Escudero said that Senator Arroyo was correct in pointing out that equal protection does not necessarily preclude a classification of individuals and accord them different treatment for as long as there is substantial distinction and basis to accord these individuals differently.

#### INTERPELLATION OF SENATE PRESIDENT ENRILE

Asked by Senate President Enrile whether it is the intent of the bill to declare that the killing of a member of media, in the performance of his or her lawful profession, would automatically become murder even without any qualifying circumstance, Senator Escudero answered in the affirmative.

Asked whether the killing of a member of media would still be classified as murder even if prior to the act there was a quarrel and a struggle, Senator Escudero replied in the affirmative. He explained that in the crafting of the bill, the Committee decided to include the killing of members of media as part of the crime of murder under Article 248 of the Revised Penal Code rather than just consider it as an aggravating circumstance under Article 14 of the Revised Penal Code because the effect essentially

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would be the same in that it will be considered as a qualifying circumstance, elevating the impossible penalty with respect to the offense committed by the respondent in such particular instance.

On whether the killing would still be classified as murder even if it was caused by the provocation of a member of media, Senator Escudero replied that while the respondent may be charged with murder, he can still claim as a mitigating circumstance the fact that he was provoked which would nullify the additional penalty that may be imposed by the judge.

To Senate President Enrile's contention that provocation in an ordinary killing is not a mitigating circumstance under the Revised Penal Code, Senator Escudero said that while the word "provocation" was not actually used in the Revised Penal Code, there is a mitigating circumstance if violence was initiated by a member of media.

On whether the bill would automatically charge for murder a truck driver who recklessly ran over a group of media men who were on their way to cover an event, even if the killing would simply be homicide through reckless imprudence, Senator Escudero replied in the negative, pointing out since it is part of the Revised Penal Code, intent is very relevant and must be proven. He explained that the bill is not a special law which could have considered the act as *mala prohibita*, wherein intent is immaterial, and would pose a danger that the mere killing of a member of media will be classified as murder.

Asked on the definition of "in lawful exercise of his profession," and whether an aggrieved party, who decided to take the law into his own hands and kill a media person who has become a pest and uses his profession to extort money, would be punished with the heavy penalty for murder, Senator Escudero explained that the bill cannot distinguish between the so-called "fly-by-night or scoundrels" and those who are not. He explained that it is already a matter of defense on the part of the respondent to prove that the victim was a scoundrel or a bad person and on the part of the government prosecutors, to prove that the intent of the killing was the fact that the person was a member of media who was just exercising his or her profession and not for other personal reasons.

On instances where the media person is killed for having an affair with another man's wife,

Senator Escudero said that, under the Revised Penal Code, it would be considered as an exempting circumstance if both are caught in the act. He explained that murder would only be charged if other qualifying circumstances are present, i.e. evident premeditation or cruelty.

Asked whether the crime would still be murder if the offender is a member of media, Senator Escudero replied that the nature of the profession of the offender would be immaterial. He agreed with Senate President Enrile that sufficient provocation or threat on the part of the offended party which immediately preceded the act is considered as a mitigating circumstance.

Asked whether a member of the board of directors of a broadcast organization is considered a "member of the media," Senator Escudero answered that the executives are included as long as they were killed in connection with their position in the media organization. He added that during discussions in the Committee, it was determined that the term "members of the media" would include "those actually exercising their profession" which includes print, broadcast and television.

Asked whether the intentional killing of the president of ABS-CBN would be considered as murder even without any qualifying circumstance, Senator Escudero replied that it is murder if it is alleged and proven that the reason or intent behind the killing is his/her office or position as president of the media organization. He added that the same would apply in cases involving lesser officials of the organization. Moreover, he explained that given that media is governed via self-regulation, it is not for Congress to determine, discuss or decide what would fall under the purview of lawful and unlawful exercise on the part of a member of media. He supposed that it is a matter of evidence to be proven either by the prosecution or the defense.

To the observation that the bill was filed in recognition of the importance of media in a democratic society, Senator Escudero agreed as he added that the second basis was that the Philippines has been tagged as the second most dangerous place for journalists. He stated that while it is more an issue of enforcement on the part of the Executive Branch, the Committee on Justice and Human Rights believed it was appropriate to pass a legislation to address the problem.

On whether the killing of a teacher, a soldier or a policeman could *ipso facto* qualify as murder, Senator Escudero explained that there were pending bills before the Committee and the House of Representatives along the same line. As to the killing of soldiers, he cited that in Bicol, where the insurgency problem was more serious compared to other areas in the country, it has been the practice of prosecutors to charge perpetrators with murder, especially when there is premeditation and treachery.

#### INTERPELLATION OF SENATOR ZUBIRI

Senator Zubiri expressed his intent, at the proper time, to propose an amendment qualifying what media men are supposed to be. Senator Escudero said that he was open to suggestions.

Asked whether it is his belief that the law would deter the killing of journalists, Senator Escudero expressed hope that the law would put a stop to the killings. He clarified that the law would not apply to the Maguindanao massacre victims who were members of media because by principle, criminal laws are prospective and not retroactive. He believed that it is the certainty of punishment that deters crimes, thus, to a large extent, it depends on the law enforcers to arrest and bring offenders to justice.

On clarifying the circumstances of the crime at the proper time, Senator Escudero assumed that all crimes punishable under the Revised Penal Code recognize the presence of intent because they are considered *mala in se* as opposed to the crimes punishable by a special law, called *mala prohibita*, which do not consider the intent of the perpetrator. He added that it is automatic that the intent of the perpetrator is a matter that the prosecution and the accused have to prove or disprove. Further, he said that the Committee decided against proposing a special law penalizing the killing of a member of media so that intent would be relevant.

On whether the killing of media men would automatically be a non-bailable offense regardless of the intent, Senator Escudero replied that it is up to the discretion of the judge whether to grant or deny bail regardless of the recommendation of the prosecutor and with the added qualification, by virtue of the Constitution, which is when evidence of guilt is strong. He said that if the prosecutor decides that the intent of the killing was related to the work of the victim and he arrives at a conclusion that the victim

was a member of the media in the lawful exercise of his function, he can file information for murder and recommend that bail be denied.

Senator Zubiri expressed support for the bill or any other initiative that would deter crimes against media men as he revealed that he filed a bill which proposed compulsory insurance for journalists. He noted that many media practitioners practice their trade without any insurance from their respective organizations. In like vein, he disclosed that he filed another bill asking for the restoration of the death penalty for certain heinous crimes. He believed that if the penalties are stiff enough to scare would-be perpetrators, crimes can be deterred. He observed that OFWs are very careful when they work in countries that impose harsh penalties or even death on offenders. Senator Escudero promised to take up the proposals but he reiterated that he voted for the repeal of the death penalty as a congressman. As regards the OFWs, he said that they tend to be law abiders especially in countries where disputes cannot be settled amicably but, he noted, they are not so conscientious about following laws in the Philippines because there is no certainty of punishment. He gave assurance that the proposals of Senator Zubiri would be included in the Committee hearing on December 14, 2010, particularly the one on the death penalty as he believed that it is about time legislators reviewed the issue.

Senator Zubiri explained that he brought up the topic because drug traffickers who were apprehended years ago continue their trade even within the Bilibid Penitentiary, and the PDEA agents who apprehended them have been gunned down in retaliation. Also, he surmised that criminals were no longer afraid of the Philippine justice system and the Philippine penal system.

Lastly, Senator Zubiri agreed with the view of Senate President Enrile that the bill might encounter problems with the equal protection clause of Constitution as it might become a special law for one organization to the exclusion of others. Nonetheless, he manifested that he would support the bill, believing that journalists must be protected. He stated that at the proper time, he would propose that certain provisions be clarified so that the law would not also be abused by the media organization.

On the equal protection clause, Senator Escudero stated that the Constitution does not automatically

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and necessarily preclude the classification of individuals and different treatment of individuals and/or groups for as long as it is not considered arbitrary and unreasonable whenever a petition is brought before the courts.

#### INTERPELLATION OF SENATOR DRILON

Senator Drilon stated that he signed Committee Report No. 9; however, the interpellation of Senate President Enrile brought to light certain matters, particularly the reimposition of the death penalty, that he intended to pursue. Senator Escudero stated that the proviso on the death penalty was simply added to qualify the act as murder, the seventh item in the list under Article 248.

Senator Drilon adverted to page 2 of Committee Report No. 9 on the list of amendments to Article 248 (Murder), citing the phrase “by *reclusion perpetua* to death if committed with any of the following.”

#### SUSPENSION OF SESSION

Upon motion of Senator Escudero, the session was suspended.

*It was 4:18 p.m.*

#### RESUMPTION OF SESSION

At 4:25 p.m., the session was resumed.

#### MANIFESTATION OF SENATOR ESCUDERO

Senator Escudero stated that during the suspension, he explained to his colleagues that Senate Bill, No. 455 was an amendment to the bill filed by Senator Ejercito Estrada. However, he said that at the proper time, the Committee would consider removing the phrase “to death.” He explained that the phrase was included in the bill to be consistent with the Revised Penal Code. He pointed out that when Congress abolished the death penalty, individual laws were not amended accordingly, therefore, they still carry the phrase “to death” which the Committee merely reflected in the bill without the intention of reinstating the death penalty in any form, manner or state.

Senator Sotto commented that had Senator Drilon not seen the proviso, the death penalty would have been reimposed.

Senator Escudero clarified that even as a congressman he voted for the abolition of the death penalty and in the absence of any new evidence or convincing arguments for its reimposition, his position has not changed to this day.

Senator Sotto expressed hope that he would be able to present new evidence to prove that there is need to reimpose the death penalty. He informed the Body that he was the author of the bill imposing the death penalty for drug trafficking in the 9<sup>th</sup> Congress.

#### SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 455

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

#### CHANGE OF REFERRAL

Upon request of Senator Recto and with the consent of Senator Villar, there being no objection, the Chair referred Senate Bill Nos. 2142 and 2379, primarily to the Committee on Ways and Means, and secondarily to the Committee on Economic Affairs.

#### COAUTHOR



Senator Sotto manifested that Senator Escudero is coauthor of Senate Bill No. 2615.

#### ADJOURNMENT OF SESSION

Upon motion of Senator Sotto, there being no objection, Senate President Pro Tempore Ejercito Estrada declared the session adjourned until three o'clock in the afternoon of the following day.

*It was 4:29 p.m.*

I hereby certify to the correctness of the foregoing.

  
EDWIN B. BELLEN  
Acting Secretary of the Senate 

Approved on December 7, 2010