

REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 10

Monday, August 16, 2004

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 10
Monday, August 16, 2004

CALL TO ORDER

At 3:30 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Juan M. Flavier led the prayer, to wit:

Lord God from whom all blessings flow:

We praise and glorify Your Name. We ask You to guide us in our discussions so that we may resolve the vital issues confronting our nation.

Enlighten us so that we may clearly see the big picture and coordinate our actions. Bestow upon us the grace to come together as one community, for it is only by working together that we can move forward. It is only through mutual understanding that we can attain a semblance of Your Divine Wisdom.

All these we ask in Your mighty Name.

Amen.

NATIONAL ANTHEM

The *Himig Agham* of the Philippine Science High School led the singing of the national anthem and thereafter rendered the song entitled *Isang Dugo, Isang Lahi, Isang Musika*.

ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Oscar G. Yabes, called the roll, to which the following senators responded:

- | | |
|-----------------------|----------------------------|
| Arroyo, J. P. | Ejercito Estrada, L. L. P. |
| Cayetano, C. P. S. | Enrile, J. P. |
| Defensor Santiago, M. | Flavier, J. M. |
| Drilon, F. M. | Gordon, R. J. |
| Ejercito Estrada, J. | Lacson, P. M. |

- | | |
|----------------------|---------------------|
| Lapid, M. L. M. | Pimentel Jr., A. Q. |
| Lim, A. S. | Revilla Jr., R. B. |
| Madrigal, M. A. | Roxas, M. |
| Magsaysay Jr., R. B. | Villar Jr., M. B. |
| Pangilinan, F. N. | |

With 19 senators present, the Chair declared the presence of a quorum.

Senators Biazon, Osmeña and Recto arrived after the roll call.

Senator Angara was on official mission.

APPROVAL OF THE JOURNAL

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 9 and considered it approved.

REFERENCE OF BUSINESS

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

BILLS ON FIRST READING

Senate Bill No. 601, entitled

AN ACT REQUIRING THAT ALL LIQUOR PRODUCTS CARRY A WARNING LABEL THAT ALCOHOL INTAKE DURING PREGNANCY IS HAZARDOUS TO THE LIFE AND HEALTH OF THE UNBORN CHILD

Introduced by Senator Villar Jr.

To the Committees on Health and Demography; and Trade and Commerce

Senate Bill No. 602, entitled

AN ACT ESTABLISHING A FREE MEDICINE ASSISTANCE PROGRAM

FOR THE POOR AND PROVIDING FUNDS THEREFOR

Introduced by Senator Villar Jr.

To the Committees on Health and Demography; Social Justice, Welfare and Rural Development; and Finance

Senate Bill No. 603, entitled

AN ACT DEGENDERIZING ARTICLE 247 OF THE REVISED PENAL CODE

Introduced by Senator Villar Jr.

To the Committees on Constitutional Amendments, Revision of Codes and Laws; and Youth, Women and Family Relations

Senate Bill No. 604, entitled

AN ACT TO REQUIRE THAT FOOD, MEAT AND POULTRY PRODUCTS THAT CONTAIN A GENETICALLY ENGINEERED MATERIAL BE LABELED ACCORDINGLY

Introduced by Senator Villar Jr.

To the Committees on Trade and Commerce; and Health and Demography

Senate Bill No. 605, entitled

AN ACT REQUIRING ALL DENTISTS TO GIVE FREE DENTAL SERVICES IN RURAL AREAS, AMENDING FOR THE PURPOSE RA 4419 ALSO KNOWN AS THE PHILIPPINE DENTAL ACT OF 1965, AND FOR OTHER PURPOSES

Introduced by Senator Villar Jr.

To the Committees on Health and Demography; and Finance

Senate Bill No. 606, entitled

AN ACT PROVIDING FOR THE ESTABLISHMENT OF BARANGAY DRUG STORES OTHERWISE

KNOWN AS "BOTICA SA BARANGAY" AND FOR OTHER PURPOSES

Introduced by Senator Villar Jr.

To the Committees on Health and Demography; and Local Government

Senate Bill No. 607, entitled

AN ACT PROHIBITING THE DETENTION OF LIVE OR DEAD PATIENTS IN HOSPITALS AND MEDICAL CLINICS ON GROUNDS OF NON-PAYMENT OF HOSPITAL BILLS OR MEDICAL EXPENSES

Introduced by Senator Villar Jr.

To the Committees on Health and Demography; and Social Justice, Welfare and Rural Development

Senate Bill No. 608, entitled

AN ACT REGULATING DRUG PRICES, CREATING FOR THE PURPOSE THE DRUG PRICES CONTROL BOARD, DEFINING ITS POWERS AND FUNCTIONS, AND PROVIDING FUNDS THEREFOR

Introduced by Senator Villar Jr.

To the Committees on Health and Demography; Trade and Commerce; and Finance

Senate Bill No. 609, entitled

AN ACT ESTABLISHING A PRESCRIPTION DRUG PRICE MONITORING COMMISSION

Introduced by Senator Villar Jr.

To the Committees on Health and Demography; Trade and Commerce; and Finance

Senate Bill No. 610, entitled

AN ACT ESTABLISHING A PROGRAM FOR PUBLIC EDUCATION ON PROSTATE CANCER

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Introduced by Senator Villar Jr.

To the Committee on Health and Demography

Senate Bill No. 611, entitled

AN ACT AMENDING REPUBLIC ACT
4226 OTHERWISE KNOWN AS
THE HOSPITAL LICENSURE ACT

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
and Constitutional Amendments, Revision of
Codes and Laws**

Senate Bill No. 612, entitled

AN ACT PROVIDING FOR THE
UPGRADING OF THE MEDICAL
FACILITIES OF ALL HEALTH
CENTERS IN THE CITIES AND
CAPITAL TOWNS OF PROVINCES
AND APPROPRIATING FUNDS
THEREOF

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
and Finance**

Senate Bill No. 613, entitled

AN ACT GRANTING FREE MEDICAL
AND HOSPITALIZATION BENEFITS
TO INDIGENT FILIPINO WOMEN
SUFFERING FROM WOMEN'S
DISEASES, ILLNESSES AND
INJURIES DUE TO VIOLENCE
INFLICTED ON WOMEN, AND
FOR OTHER PURPOSES

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
Social Justice, Welfare and Rural Development;
and Finance**

Senate Bill No. 614, entitled

AN ACT TO PROVIDE FOR THE USE
OF MOBILE UNITS SERVING
MEDICAL, DIAGNOSTIC AND

TREATMENT SERVICES, IN ORDER
TO ENSURE THE AVAILABILITY
OF QUALITY HEALTH CARE
SERVICES FOR PATIENTS WHO
RECEIVE CARE IN REMOTE OR
RURAL AREAS AND FOR PATIENTS
WHO NEED SPECIALIZED TYPES
OF MEDICAL CARE PROVIDED
IN A COST-EFFECTIVE WAY

Introduced by Senator Villar Jr.

To the Committee on Health and Demography

Senate Bill No. 615, entitled

AN ACT TO PROFESSIONALIZE
HOSPITAL EMERGENCY SERVICES
AND FOR OTHER PURPOSES

Introduced by Senator Villar Jr.

To the Committee on Health and Demography

Senate Bill No. 616, entitled

AN ACT REGULATING THE USE OF
GOVERNMENT AMBULANCES,
PROVIDING PENALTIES FOR
VIOLATIONS THEREOF, AND
APPROPRIATING FUNDS
THEREFOR

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
and Civil Service and Government Reorganization**

Senate Bill No. 617, entitled

AN ACT ESTABLISHING STANDARDS
FOR THE IDENTITY OF MILK AND
REQUIRING THE LABELING
THEREOF

Introduced by Senator Villar Jr.

**To the Committees on Trade and Commerce;
and Health and Demography**

Senate Bill No. 618, entitled

AN ACT STRENGTHENING THE
NATIONAL NUTRITION PROGRAM,

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APPROPRIATING FUNDS
THEREFOR AND FOR OTHER
PURPOSES

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
Local Government; and Finance**

Senate Bill No. 619, entitled

AN ACT TO PROMOTE AND
ENCOURAGE THE FORMATION
AND OPERATION OF PRIVATE
NONPROFIT EMERGENCY RESCUE
UNITS

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
Local Government; and Finance**

Senate Bill No. 620, entitled

AN ACT PROVIDING THAT ALL
HOSPITALS, CLINICS, HEALTH
CENTERS AND OTHER SIMILAR
ESTABLISHMENTS RENDERING
MATERNITY SERVICES SHALL
ESTABLISH LITERACY PROGRAMS
FOR ALL EXPECTANT MOTHERS
AND APPROPRIATING FUNDS
THEREFOR

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
and Finance**

Senate Bill No. 621, entitled

AN ACT INSTITUTING AN
OCCUPATIONAL SAFETY AND
HEALTH CODE, THEREBY
REVISING AND CONSOLIDATING
OCCUPATIONAL SAFETY AND
HEALTH LAWS AND STANDARDS
FOR THE PROTECTION, MAIN-
TENANCE AND ENHANCEMENT
OF THE PHYSICAL AND MENTAL
HEALTH OF WORKERS, AND FOR
OTHER PURPOSES

Introduced by Senator Villar Jr.

**To the Committees on Labor, Employment
and Human Resources Development; and
Health and Demography**

Senate Bill No. 622, entitled

AN ACT ESTABLISHING THE OFFICE
OF RESEARCH ON WOMEN'S
HEALTH

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
Youth, Women and Family Relations; and Finance**

Senate Bill No. 623, entitled

AN ACT DESIGNATING THE
TECHNOLOGY MANAGEMENT
CENTER OF THE UNIVERSITY OF
THE PHILIPPINES AT DILIMAN,
QUEZON CITY, AS A NATIONAL
CENTER OF EXCELLENCE FOR
TECHNOLOGY ASSESSMENT,
MANAGEMENT, FORECASTING,
AND APPROPRIATING FUNDS
THEREFOR

Introduced by Senator Villar Jr.

**To the Committees on Science and Technology;
Education, Arts and Culture; and Finance**

Senate Bill No. 624, entitled

AN ACT TO REGULATE THE PRACTICE
OF PHYSICAL THERAPY IN THE
PHILIPPINES AND FOR OTHER
PURPOSES

Introduced by Senator Villar Jr.

**To the Committees on Civil Service and
Government Reorganization; and Health and
Demography**

Senate Bill No. 625, entitled

AN ACT ESTABLISHING CERTAIN
LIMITATIONS ON ADVERTISE-
MENTS RELATING TO TOBACCO
PRODUCTS

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
and Trade and Commerce**

Senate Bill No. 626, entitled

AN ACT PROVIDING FOR THE
MODERNIZATION OF THE
HEALTH CARE DELIVERY
SYSTEM, APPROPRIATING FUNDS
THEREFOR AND FOR OTHER
PURPOSES

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
Local Government; and Finance**

Senate Bill No. 627, entitled

AN ACT ESTABLISHING A CENTER
FOR AUTISM AND FOR OTHER
PURPOSES

Introduced by Senator Villar Jr.

**To the Committees on Education, Arts and
Culture; Youth, Women and Family Relations; and
Finance**

Senate Bill No. 628, entitled

AN ACT ESTABLISHING A MEDICAL
SERVICE CONTRACTING
PROGRAM UNDER WHICH THE
GOVERNMENT WILL SUBSIDIZE
PARTICIPATING HOSPITALS IN
ORDER TO ACCOMMODATE
INDIGENT PATIENTS WHO
CANNOT BE ADMITTED IN
GOVERNMENT HOSPITALS

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
Social Justice, Welfare and Rural Development;
and Finance**

Senate Bill No. 629, entitled

AN ACT PROVIDING FOR THE
STANDARDS FOR THE PRACTICE

OF REHABILITATION MEDICINE
AND FOR OTHER PURPOSES

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
and Civil Service and Government Reorganization**

Senate Bill No. 630, entitled

AN ACT AMENDING SECTION 26,
CHAPTER 4, BOOK VI OF THE
ADMINISTRATIVE CODE OF 1987

Introduced by Senator Villar Jr.

**To the Committees on Finance; and Social
Justice, Welfare and Rural Development**

Senate Bill No. 631, entitled

AN ACT PROVIDING FOR THE
CONTROL AND ERADICATION
OF RABIES, PRESCRIBING
PENALTIES FOR VIOLATION
THEREOF, AND APPROPRIATING
FUNDS THEREFOR

Introduced by Senator Villar Jr.

**To the Committees on Health and Demography;
and Finance**

Senate Bill No. 632, entitled

AN ACT PROVIDING FOR AVIATION
NOISE MANAGEMENT AND
REDUCTION IN RESIDENTIAL
AREAS

Introduced by Senator Villar Jr.

**To the Committees on Public Service; and
Environment and Natural Resources**

Senate Bill No. 633, entitled

AN ACT TO RECOGNIZE AND
REWARD THE CONTRIBUTION
OF OVERSEAS FILIPINO WORKERS
TO NATION BUILDING, GRANT
THEM BENEFITS AND SPECIAL

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**PRIVILEGES AND FOR OTHER
PURPOSES**

Introduced by Senator Villar Jr.

**To the Committees on Labor, Employment and
Human Resources Development; Foreign Relations;
Ways and Means; and Finance**

Senate Bill No. 634, entitled

**AN ACT CREATING THE OVERSEAS
FILIPINO WORKERS (OFW)
MEDICAL CENTER DEFINING ITS
POWERS AND FUNCTIONS,
APPROPRIATING FUNDS THEREOF
AND FOR OTHER PURPOSES**

Introduced by Senator Villar Jr.

**To the Committees on Labor, Employment and
Human Resources Development; Health and
Demography; Ways and Means; and Finance**

Senate Bill No. 635, entitled

**AN ACT TO PROMOTE THE
ESTABLISHMENT OF BUSINESS
ENTERPRISES BY OVERSEAS
FILIPINOS (OFs), PROVIDING
INCENTIVES AND BENEFITS
THEREOF, AND FOR OTHER
PURPOSES**

Introduced by Senator Villar Jr.

**To the Committees on Economic Affairs; Labor,
Employment and Human Resources Development;
and Ways and Means**

Senate Bill No. 636, entitled

**AN ACT AMENDING SECTIONS 29
AND 30 OF REPUBLIC ACT NO. 8042
OTHERWISE KNOWN AS THE
MIGRANT WORKERS AND
OVERSEAS FILIPINO ACT OF 1995**

Introduced by Senator Villar Jr.

**To the Committees on Labor, Employment and
Human Resources Development; and Foreign
Relations**

Senate Bill No. 637, entitled

**AN ACT ENHANCING THE QUALITY
OF FILIPINO SEAFARERS THROUGH
INFORMATION TECHNOLOGY**

Introduced by Senator Villar Jr.

**To the Committees on Labor, Employment and
Human Resources Development; Education, Arts
and Culture; and Finance**

Senate Bill No. 638, entitled

**AN ACT FIXING THE MINIMUM
STANDARD FOR DEATH
BENEFITS TO FILIPINO SEAFARERS
EMPLOYED OVERSEAS AND
ESTABLISHING A MECHANISM AT
THE PHILIPPINE OVERSEAS
EMPLOYMENT ADMINISTRATION
FOR ITS REGULAR REVIEW AND
REALIGNMENT TO PREVAILING
INTERNATIONAL STANDARDS
AND FOR OTHER PURPOSES**

Introduced by Senator Villar Jr.

**To the Committees on Labor, Employment and
Human Resources Development; and Social Justice,
Welfare and Rural Development**

Senate Bill No. 639, entitled

**AN ACT CREATING THE PHILIPPINE
OVERSEAS WORKERS BANK,
AND FOR OTHER PURPOSES**

Introduced by Senator Villar Jr.

**To the Committees on Banks, Financial
Institutions and Currencies; Labor, Employment
and Human Resources Development; and Ways
and Means**

Senate Bill No. 640, entitled

**AN ACT REQUIRING GOVERNMENT-
OWNED OR -CONTROLLED
CORPORATIONS (GOCC's) ON THE
PRIVATIZATION PROGRAM TO
RESERVE AT LEAST TWENTY**

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PERCENT (20%) OF THEIR TOTAL INITIAL PUBLIC OFFERING (IPO) OF SHARES TO OVERSEAS WORKERS, AUTHORIZING THE OVERSEAS WORKERS INVESTMENT (OWI) FUND UNDER R.A. NO. 7111 TO MANAGE AN INVESTMENT FUND PORTFOLIO FOR OVERSEAS WORKERS AND FOR OTHER PURPOSES

Introduced by Senator Villar Jr.

To the Committees on Labor, Employment and Human Resources Development; and Government Corporations and Public Enterprises

Senate Bill No. 641, entitled

AN ACT TO DECLARE MARCH SEVENTEEN OF EVERY YEAR AS A WORKING SPECIAL HOLIDAY TO BE KNOWN AS OVERSEAS FILIPINO WORKERS' DAY

Introduced by Senator Villar Jr.

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 642, entitled

AN ACT PROVIDING FOR THE PAYMENT THROUGH VETERANS BONDS OF ARREARAGES IN THE VETERANS PENSIONS AS MANDATED BY REPUBLIC ACT NO. 7696 AND FOR OTHER PURPOSES

Introduced by Senator Villar Jr.

To the Committees on Finance; and National Defense and Security

Senate Bill No. 643, entitled

AN ACT EXEMPTING THE BANK DEPOSITS OF SENIOR CITIZENS FROM THE 20% WITHHOLDING TAX ON INTEREST INCOME, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7432

Introduced by Senator Villar Jr.

To the Committees on Ways and Means; and Social Justice, Welfare and Rural Development

Senate Bill No. 644, entitled

AN ACT EXTENDING PREFERENCE OF EMPLOYMENT TO ANY ONE CHILD OF VETERANS IN THE GOVERNMENT, INCLUDING GOVERNMENT-OWNED AND/OR - CONTROLLED CORPORATIONS, AND FOR OTHER PURPOSES

Introduced by Senator Villar Jr.

To the Committees on Civil Service and Government Reorganization; and National Defense and Security

Senate Bill No. 645, entitled

AN ACT TO ESTABLISH A JOB TRAINING PROGRAM FOR MATURE OR OLDER WORKERS

Introduced by Senator Villar Jr.

To the Committees on Labor, Employment and Human Resources Development; and Social Justice, Welfare and Rural Development

Senate Bill No. 646, entitled

AN ACT PROVIDING FOR A SPECIAL POLLING PLACE FOR THE DISABLED AND THE ELDERLY

Introduced by Senator Villar Jr.

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

Senate Bill No. 647, entitled

AN ACT TO ESTABLISH AND MAINTAIN AN OFFICE OF VETERANS AFFAIRS IN THE PHILIPPINE EMBASSY IN THE UNITED STATES OF AMERICA, PRESCRIBING ITS FUNCTIONS,

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PROVIDING FUNDS THEREFOR,
AND FOR OTHER PURPOSES

Introduced by Senator Villar Jr.

To the Committees on National Defense and
Security; Foreign Relations; and Finance

Senate Bill No. 648, entitled

AN ACT REDEFINING THE TERM
"VETERAN" THEREBY AMENDING
FURTHER REPUBLIC ACT NO. 6948
AS AMENDED

Introduced by Senator Villar Jr.

To the Committee on National Defense and
Security

Senate Bill No. 649, entitled

AN ACT REQUIRING BUSINESS
ESTABLISHMENTS TO GIVE
EXACT CHANGE TO CONSUMERS

Introduced by Senator Villar Jr.

To the Committee on Trade and Commerce

Senate Bill No. 650, entitled

AN ACT TO REQUIRE THE LABELING
OF IMPORTED MEAT AND MEAT
FOOD PRODUCTS

Introduced by Senator Villar Jr.

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

RESOLUTIONS

Proposed Senate Resolution No. 38, entitled

RESOLUTION CREATING AN
OVERSIGHT COMMITTEE
ON PRISON MANAGEMENT,
VEHICLE REGISTRATION,
FIREARMS REGISTRATION,
CRIMINAL INTELLIGENCE AND
MANAGEMENT, AND THE USE

OF INTELLIGENCE AND
CONFIDENTIAL FUNDS,
PROGRAMS AND ACTIVITIES

Introduced by Senators Gordon and Angara

To the Committee on Rules

Proposed Senate Resolutions No. 39, entitled

RESOLUTION HONORING AND
COMMENDING THE OUTSTAND-
ING TEACHERS OF 2004

Introduced by Senators Drilon, Flavio and
Compañera Pia S. Cayetano

To the Committee on Rules

REMARKS OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago expressed appreciation to Senator Enrile for yielding the floor to her. She revealed that a number of press releases have been issued by people who felt alluded to in her privilege speech last Wednesday. One such press release, she said, came from former President Ramos who said that the questions she had raised should be directed to Senate President Drilon who was then Executive Secretary during the period mentioned in her speech.

Thereupon, Senator Defensor Santiago read into the *Record* the following annexes to her privilege speech in order to show the public that the agreement was illegal from the start:

Annex A. TIMELINE

31 July 1975 -- National Housing Authority was created under P.D. No. 757 with jurisdiction over housing and only over housing matters.

2 March 1988 -- President Aquino issued Memorandum Order Nos. 161 and 161-A mandating NHA to conduct feasibility studies and thereafter develop low-cost housing at Smokey Mountain.

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17 January 1992 -- President Aquino approved the NHA Development Plan through Memorandum Order No. 415, which also created the Executive Committee.

Jan. to Feb. 1992 -- Notices of bidding were published.

31 May 1992 -- The bidding was conducted.

Senator Defensor Santiago said that after President Aquino's term expired and President Ramos took over the presidency, the latter continued the implementation of the development plan and declared that the Smokey Mountain Development and Reclamation Project would be implemented "without the government spending a single centavo."

She stated that President Ramos was clearly the President during the entire substantive period when this contract was negotiated and implemented, thus, he could not point to Mrs. Aquino or Mr. Drilon for although the noble idea came from President Aquino, the implementation was during Mr. Ramos' term.

9 September 1992 -- President Ramos issued Proclamation No. 39 authorizing the reclamation of the original area of 40 hectares.

7 October 1992 -- President Ramos authorized the NHA to enter into a joint undertaking with RII Builders, Inc. owned by Reghis Romero, who also owns RII Holdings and Harbor Center Port Terminal.

Senator Defensor Santiago mentioned that the "contract" had three revisions but all three versions contained an identical provision categorically stating that the owner shall own 40 hectares (then eventually 79 hectares) of the reclaimed land. Noting that the venture agreement intended to transfer ownership of the reclaimed land to a private corporation, she pointed out that the onus of her speech was the clear violation of the Constitution which provides that

no public land, even if it is declared inalienable, shall be transferred to a private corporation except by lease and only for 25 years renewable for another 25 years and for not more than 1,000 hectares.

She added that the Constitution implies that public land can only be sold to individuals but at a maximum of 12 hectares per individual. She pointed out that the Constitution prohibits the disposal of public land by a transfer of ownership. Thus, she stressed, the Ramos Administration could not sell the land to a private corporation.

Senator Defensor Santiago stated that the most basic question was whether the Constitution was violated by a contract authorized by Mr. Ramos. She also asked if Congress ever passed a law authorizing such sale or lease as approval of Congress is an absolute criterion for the legality of any contract involving public land.

7 October 1992 -- President Ramos authorized the NHA to enter into a joint venture.

9 March 1993 -- A Joint Venture Agreement or Agreement 1 was produced.

Under Agreement 1, Senator Defensor Santiago explained, RII undertook to "fully finance the development of Smokey Mountain into a low-cost housing complex and commercial site as well as the reclamation and subsequent development of 40 hectares of foreshore and submerged land across Radial Road 10." The 40 hectares, she said, would be payment to RII as its asset share. She stressed that the term "fully finance" in any layman's language is to spend from beginning to end of the project.

She surmised that former President Aquino, after visiting the Smokey Mountain, could have asked that a study be made in order to provide the squatters a housing project. When President Ramos took over, she disclosed, he decided to reclaim and sell the land in order to finance the said project. But she emphasized that the capital for the project could be raised not by selling but by leasing the reclaimed land to a private corporation as allowed by the Constitution.

31 August 1994 -- Two years after President Ramos formally assumed office, he formally approved the Joint Venture Agreement and issued Proclamation No. 465 authorizing the NHA to reclaim 79 hectares and directing the DENR to issue special patents for reclaimed lands. As a result, the DENR issued NHA Special Patent Nos. 3591 and 3598, an environmental compliance certificate and a transfer certificate of title.

26 September 1994 -- The Asset Pool Agreement was entered into by R2, NHA, PNB and HIGC.

Senator Defensor Santiago recounted that during this time, the builder who manifested he had full capability to undertake all the obligations was unable to finish and fulfill the contract. She emphasized that the agreement should have been rescinded; instead, Malacañang gave the contractor P3 billion obtained from different government financing institutions. She stressed that the GFIs acquired their money from monthly payments of ordinary, medium-salaried workers and this was the money paid by the government to a contractor who had breached a contract.

As regards the Asset Pool Trust Agreement, Senator Defensor Santiago wondered whether it is a form of *sui generis*.

23 June 1999 -- The Clean Air Act was enacted, and as a result the incinerator project included in the Phase II was abandoned.

16 December 1999 -- RII was given the additional right to reclaim another 150 hectares through a resolution of the Executive Committee.

August 2000 -- In a supplemental agreement, the NHA conveyed its properties into the asset pool.

31 July 2003 -- The investors of the asset pool were as follows:

- * SSS – P1.039 billion
- * OWWA – P835 million

- * Land Bank of the Philippines – P124 million
- * Home Guarantee Corporation *Abot Kaya Pabahay* Fund – P350 million
- * Pagcor – P6 million
- * PNB – P300 million
- * HGC Provident Fund – P30 million
- * Other GFIs – P473 million

31 December 2003 -- RII Builders and RII Holdings, Inc. became owners of 28% and 40%, respectively, of the voting shares of Harbor Center Port Terminal, Inc., which at present, owns 10 hectares of the reclaimed land.

Annex B. PERSONS AND ENTITIES INVOLVED

According to Senator Defensor Santiago, persons and entities involved were divided into categories – the principals who are the chief suspects with criminal liabilities and the executive committee members, most of whom were bureaucrats who may not even know what was going on. She explained that she did not wish to cast a shadow on the persons included in the second category as they may have been only nominal members and had no direct participation in the negotiations and implementation of the contract.

A. PRINCIPALS

Fidel Ramos -- President from 1992 to 1998

Dioniso de la Serna -- Chairperson of the Executive Committee, chair of the NCR Corp. in 1992

Robert Aventajado -- Chairperson of the Executive Committee in 1999

Robert Balao -- General Manager of NHA

Reghis Romero -- Chairperson of RII Holdings, Inc.

Edmond Sese -- President of RII Builders

Vicente Suazo Jr. – President of Harbor Center Port Terminal

B. MEMBERS OF THE EXECUTIVE COMMITTEE

The City of Manila – then headed by Mayor Alfredo Lim

Department of Public Works and Highways – then headed by Jose de Jesus, Edmundo Mir and Gregorio Vigilar

Public Estates Authority – then headed by Eduardo Zialcita until 1992, and thereafter by Amado Lagdameo

Philippine Ports Authority

Department of Environment and Natural Resources – Angel Alcala (1992 –1993) and Ricardo Umali (1994-1995)

Development Bank of the Philippines – CEO Edgardo Garcia (1988-2000)

National Economic and Development Authority – Dante Canlas

Metropolitan Manila Development Authority

Presidential Commission for the Urban Poor

Presidential Task Force on Solid Waste Management

Annex C

Senator Defensor Santiago challenged any person who has been issuing press releases against her or any Member of the Senate to answer the following questions which would prove that the contract was unconstitutional, invalid, illegal and criminal.

- 1) Under the Administrative Code of 1987, DENR exercises supervision and control over alienable and disposable lands. Did DENR make a written

recommendation to the President that the reclaimed land should be classified as public, agricultural land? Or did Mr. Ramos trust his own judgment that the land can be classified as alienable and disposable?

- 2) Did the President issue a proclamation classifying the reclaimed lands as alienable and disposable lands of public domain, as required by law?
- 3) Did the President or the DENR issue a written declaration that the land is no longer needed for public use, public service or quasi-public use?
- 4) Did PEA make a written request from DENR for authority to reclaim the land? Did the DENR issue such authority?
- 5) How come it was not the PEA but the NHA which undertook the physical reclamation through a private contractor, when the NHA has no jurisdiction over reclaimed land whatsoever?
- 6) Why is the alleged public bidding process not included in the factual recitations of the three versions of the Joint Venture Agreement?

Senator Defensor Santiago explained that the standard form of a joint venture agreement is that, before the contract proper is set out in the documentation, there is always an introductory portion or a preface consisting of a paragraph which begins with "Whereas"; they actually constitute a recitation of the historical facts that led to the contract. But she noted that in the "Whereas" portion of any of the three versions of the Joint Venture agreement, there is no single mention that a public bidding was ever conducted.

However, Senator Defensor Santiago stated that she had included it in her time line on the sheer testimony of a certain architect in the NHA whose name she could not remember.

The architect, she said, has arrogated to himself the extraordinary power of passing upon questions of constitutionality and legality -- that

architect should be examined as well if not in this Chamber, in a hospital.

- 7) Why does the Agreement provide that the reclaimed land will be given to the private corporation as "owner" when the Constitution provides that a private corporation can only be a leasee?
- 8) Why did the Ramos administration implement the plan without requesting Congress to enact a law, authorizing and approving the lease of the reclaimed land or its sale to private individuals of Filipino citizenship?
- 9) Does the respective charter of each of the GFIs that supplied the P3 billion capitalization for the project allowed that particular GFI to make or enter into that kind of an enterprise?

PARLIAMENTARY INQUIRY OF SENATOR ENRILE

At the outset, Senator Enrile acknowledged the prerogative of the Majority to organize the Senate, organize the committees and appoint its chairpersons. Apropos Sections 18 to 21 of the Rules of the Senate on the membership of the committees, he stated that following the Senate tradition and precedents, the entire membership of a Senate committee is presented to the Body whenever a committee is organized. He recalled that this had been done when the Senate first convened in 1987 and in the succeeding Congresses, adding that he was not aware of any other precedent. Moreover, he argued that pursuant to Section 121 of the Rules, the Body could suspend the Rules when such a motion is presented by the rules committee. However, he stated that he did not know whether there was a motion last Wednesday to suspend the Rules and thus, disregard Sections 18 to 21. He pointed out that the issue is not insignificant because the Chair has been referring bills to the committees since the start of the 13th Congress.

Adverting to Section 31 of the Rules, he stated that a time element is involved in the work of a committee when a bill is referred to it. In view thereof, he asked at what point the Senate

committees could be considered to have been constituted: Is it when the chairperson or the last member of a committee is elected? He said that when he asked whether the rules committee was already functioning, Senator Pangilinan had replied in the negative.

While conceding that the committee chairmen and members had been elected in one day in the previous Congresses, Senator Pangilinan pointed out that the Senate digressed from this practice in 1998 when the committee chairpersons were elected first and the members were elected in the succeeding days. This, he said, served as precedent when 12 committee chairpersons were elected in last Wednesday's session and no committee members were elected. He expressed hope that the election of the Majority and Minority committee members would be completed within the week.

Senator Enrile said that the Records of the Senate from 1916 to 1998 show that the Senate had always followed the tradition of other parliamentary organizations wherein all committees are organized with the election of the chairpersons and members. He wondered whether the 1998 procedure would now become a precedent in disregard of tradition. In reply, Senator Pangilinan agreed that the previous acts of Congress would serve as a guide to the present Congress but the decision on what precedent to follow should be submitted to the entire Body.

Senator Enrile cited Section 135 of the Rules which states that if there is no rule applicable to a specific case, the precedents of the Legislative Department should be resorted to. He wondered whether the Body could find a precedent in the *Jefferson's Manual*, *Riddick's Precedent and Practices* and *Hind's Precedents* that is similar to the recent act of the Senate. He clarified that he had no objection to the procedure if the Body decided to follow it.

At this juncture, the Chair referred the inquiry to the Committee on Rules after it shall have been organized.

Senator Defensor Santiago noted that in a case involving the City of Dagupan, the Supreme Court ruled that an entity may exist although it has

not been organized. As such, she said that the Committee on Rules exists, although it has not been organized.

At this point, Senator Lim asked leave to give his remarks in Filipino as the nation is celebrating "Linggo ng Wika."

Senator Defensor Santiago raised a point of order, stating that Senator Lim need not apologize for preferring to speak in Filipino which is the national language as provided for in the Constitution.

REMARKS OF SENATOR LIM

Senator Lim thanked Senator Defensor Santiago for saying that she did not cast any aspersions on persons who were allegedly members of the Executive Committee as she knew how bureaucracy works. He admitted that as Mayor of Manila, he was a member of the Executive Committee. Further, he said that he had been asked to a Malacañang conference on the project following the publication of an article in *Time* or *Newsweek* that branded the Philippines as the garbage country of Southeast Asia. The article, he surmised, prompted then President Fidel Ramos to act on the problem. He recalled that the President pledged to remove Smokey Mountain, something for which the residents of Manila should be grateful.

He affirmed that, indeed, the agreement was that the government would not spend a single centavo on the housing project that would be put up in Smokey Mountain and that an incinerator would be constructed as part of a modernized waste management effort. He said that the Executive Committee was amenable to the proposal.

However, Senator Lim emphasized that he had no knowledge of the first, second, and third agreements that Senator Defensor Santiago mentioned. He recalled that the mayors of Metro Manila were invited to the meeting to solve the waste problem. He explained that Smokey Mountain came into existence as a consequence of the dumping of garbage coming from the whole of Metro Manila. He said that he was glad Smokey Mountain is gone.

On the contention that the agreements violated the Constitution and related laws, Senator Lim urged that the Blue Ribbon Committee and the Committee on Government Corporations and Public Enterprises to undertake an investigation immediately to pinpoint the persons responsible therefor.

Moreover, Senator Lim recalled that he attended only four meetings of the Executive Committee. For the record, he stated that he did not receive a single centavo from the financial agreement and if it would be proven otherwise, he would willingly resign as senator. He said that he was no longer aware of the latter phase of the project in 1994 when the government started using pooled asset financing.

Senator Lim said that he stood up to explain his side because the media had barraged him with questions about his possible involvement in the alleged anomaly. While he thanked Senator Defensor Santiago for saying that there are principal suspects, he wanted the two committees to come out with categorical findings on the issue.

INTERPELLATION OF SENATOR DEFENSOR SANTIAGO'S PRIVILEGE SPEECH

At this point, the interpellations on the speech of Senator Defensor Santiago commenced.

INTERPELLATION OF SENATOR ENRILE

Preliminarily, Senator Enrile agreed with Senator Defensor Santiago that the matter should be opened to public scrutiny and debate especially at a time when the country is financially in distress. He believed that it would be a boon to the country if Congress would be able to handle the matter properly, and if the government could face the issue and provide solutions to the immense problems brought about by the lack of well-thought out legal studies before allowing the reclamation of lands which had resulted in a legal conundrum.

Asked about the Regalian Doctrine, Senator Defensor Santiago informed the Body that the principle is that all natural wealth found within the State belongs to it as best exemplified by the Spanish Law of Waters of 1896 that had been embodied in the Philippine Civil Code.

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On whether any property in the hands of individuals or artificial persons was granted out of the benevolence of the government, Senator Defensor Santiago replied in the affirmative, stating that since the State owns each and every natural resource, it can belong to either an individual or a group of individuals who have formed the corporation only with the consent of the State.

Senator Enrile stated that the Philippines follows the Regalian Doctrine not only because Spain introduced it to the country but also by virtue of its adoption in the Constitution which provides that as a matter of State policy, all lands, whether agricultural, timber or mineral, and all waters, whether inland or maritime, and all rivers and bays not held privately belong to the State and are subject to the disposition of the State.

Senator Defensor Santiago agreed as she stated that whether or not the State can dispose of a particular land in favor of a private individual or corporation depends on the classification of the land, whether it is inalienable and non-disposable or, on the other hand, alienable and disposable. She affirmed that under jurisprudence, the only alienable public domain consists of public agricultural lands, thus, if the State wanted to sell or otherwise dispose of a certain property, it has first to be classified as public agricultural land.

Senator Enrile stated that under the country's system of government, only Congress is authorized to use the sovereign power of the State to dispose of lands or classify lands as alienable or inalienable, as disposable or non-disposable. Senator Defensor Santiago agreed, saying that many other preliminary steps should be taken principally by the President and by certain Executive agencies working directly as her alter egos. But in the final analysis, she said, no property of the State can be sold without a law passed by Congress authorizing that disposition, whether it is a sale or a lease or some other form of transfer or disposition.

Senator Enrile said that Congress has to authorize the disposition of the natural resources in accordance with the Constitution. Senator Defensor Santiago agreed, the Constitution being the basic or supreme law of the land. She stressed that no law can contradict the Constitution which Justice

Holmes described as "the brooding omnipresence in our sky."

Senator Enrile stated that from the onset of Philippine statehood after the departure of the Spaniards, the government enacted certain laws under legislative power, extant at that time, that were superseded by Commonwealth Act No. 141 that still exists today as the basic land law of the Philippines.

Senator Defensor Santiago stated that Commonwealth Act No. 141 or the Public Lands Act of 1936 is still the prevailing law on the disposition of public lands.

Senator Enrile recalled that President Marcos issued Presidential Decree No. 3-A dated January 11, 1973, which repealed the Spanish Law of Waters of 1866, from which day, the reclamation of lands was removed from the private claimants and became the sole function of government. Moreover, he recalled that during the period between January 11, 1973 to February 4, 1977, the Department of Public Works and Highways was the one authorized to perform the function of reclaiming lands; in February 4, 1977, the Public Estates Authority was created with the power to reclaim lands for the national government, and the President, at the same time, issued Presidential Decree No. 1085, dated also February 4, 1977, authorizing the national government or the President of the Philippines to issue special land patents for those lands that may be reclaimed by the PEA by virtue of its powers.

Senator Defensor Santiago noted that there seems to be two laws on the same subject matter: the Charter of the Public Estates Authority which made it the primary agency responsible for the reclamation of public lands, and the Administrative Code of 1987 which gave the Department of Environment and Natural Resources control and supervision over the disposition of public lands. She stated that the law on statutory construction is that when there is an apparent conflict between two laws, the first effort should be directed towards harmonizing these two laws. She interpreted the present situation thus: the DENR should first give approval for a reclamation project and then authorize the PEA to physically undertake the reclamation project. She stated

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that PEA has the exclusive authority to reclaim lands which it could do on its own or through a private contractor.

Under E.O. No. 525, in relation to P.D. Nos. 1084 and 1085, asked whether the reclamation shall be done upon the recommendation of PEA subject to the approval of the President, Senator Santiago replied in the affirmative as she pointed out that in the PEA-Amari case, the Supreme Court ruled that the function of the President is limited to the approval of the project. She affirmed the observation that the President cannot direct any other government agency to reclaim any land.

Senator Enrile recalled that when then President Marcos signed P.D. Nos. 3-A, 1084, 1985 and E.O. No. 525 during the martial law years, he was exercising both executive and legislative powers. Senator Defensor Santiago stated that President Marcos signed these issuances while he was exercising the highest legislative authority, hence, they are laws.

On whether the President could not go beyond the authority granted by Congress with respect to the manner of disposing lands of the public domain, Senator Defensor Santiago replied in the affirmative. She agreed to the observation that the President cannot justify any act that is not authorized by law no matter how noble his intentions. She stated that it is an accepted principle in civilized society that the end does not justify the means, the end in this case being the low-cost housing project in Tondo. She also noted that in the PEA-Amari case, the Supreme Court ruled that the President cannot convey public land on his own will alone.

Asked if any reclamation of land in violation of the Constitution and the laws would produce no legal rights, Senator Defensor Santiago replied in the affirmative, adding that good faith is never a defense, except in rare instances under the Penal Code.

Senator Defensor Santiago agreed to the thesis of Senator Enrile that the improvements in the reclaimed land could revert to the State since the contracts were totally void, and the projects were undertaken in bad faith. She said that while

the developer used the defense that he does not have the title to the reclaimed land, the issue is the Joint Venture Agreement signed between the NHA general manager and RII Builders. In addition, she said that under the agreement, full ownership shall be transferred to the developer. Presuming that the mother title to the lands are with PNB, she stated that the PNB is obligated to turn over the titles to the developer, which is contrary to the Constitution. The fact that the developer does not have the titles, she stressed, does not mitigate his criminal liability.

Asked what justification the developer had in constructing the structures if he has no title to the reclaimed land, Senator Santiago replied that under the contract, the developer could pre-sell the reclaimed land. As a result, she said the developer constructed a port terminal and sold certain portions of the reclaimed land to big business entities.

On whether she would agree to the proposition that all similarly situated reclamations, even those authorized by PEA, whether made by private corporations or individuals, are void if there is no congressional enactment, Senator Defensor Santiago replied in the affirmative. She said that Congress should be fully cognizant that it has the sole authority to sell or dispose public lands. She urged the Senate to be vigilant about its powers. She said that absent any congressional authorization, if transactions on the disposition of public lands have already been consummated and have no legality until now, then the participants have no vested right to claim any privileges for themselves, especially ownership. She stressed that those sales violated the Constitution.

Asked by Senator Enrile if all reclamations after January 11, 1973 would be similarly situated, Senator Defensor Santiago replied that if such transactions were negotiated and consummated after the 1987 Constitution was promulgated, then these would be null and void.

On the observation that the transactions which allowed the occupancy of the reclaimed lands along the stretch of Manila Bay by big companies and even by the Catholic Church, which built a basilica, were null and void, Senator Defensor Santiago said that in view of the

PEA-Amari ruling, the Solicitor General should bring action to declare these transactions as null and void.

On the contention that as a private corporate entity, the Archbishop of Manila cannot acquire any portion of land of the public domain, Senator Santiago thanked Senator Enrile for pointing out the scope and magnitude of the contracts. She said that the transaction being null and void, the basilica should either be torn down or reverted to the State under the Regalian Doctrine.

Senator Defensor Santiago agreed with Senator Enrile that the time has come to face the issue, saying that Congress should pass a law before giving any public land to a private corporation. She pointed out that it is a basic principle of statutory construction that where the law does not distinguish, there should be no distinction.

Senator Enrile agreed that no rights should flow in favor of Mr. Romero who reclaimed a portion of Philippine waters in violation of the law. He suggested that all the funds that Mr. Romero's corporation had collected out of the occupancy of the reclaimed lands be placed in escrow for disposition at the proper time when

the rights of the occupants shall have been settled either by legislation or by judicial action.


Senator Defensor Santiago welcomed the suggestion, stating that this would be the perfect solution to President Macapagal Arroyo's ten-point agenda which includes at least eight tax measures. She said that if a task force with sufficient political will could be constituted, then Congress could raise the needed money simply on the basis of this principle.

ADJOURNMENT OF SESSION

Upon motion of Senator Pangilinan, there being no objection, the Chair adjourned the session until three o'clock in the afternoon of the following day.

It was 5:13 p.m.

I hereby certify to the correctness of the foregoing.


OSCAR G. YABES
Secretary of the Senate

Approved on August 17, 2004