



REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 15

Monday, August 30, 2004

**THIRTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 15
Monday, August 30, 2004

CALL TO ORDER

At 3:25 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

PRAYER

Sen. Juan M. Flavier read the following prayer prepared by Sen. Ramon B. Magsaysay Jr.:

"Lessons of the Past"
ECUMENICAL PRAYER

Progress, far from consisting in change, depends on retentiveness. When change is absolute, there remains no being to improve and no direction is set for possible improvement. When experience is not retained, as among savages, infancy is perpetual. Those who cannot remember the past are condemned to repeat it. In the first stage of life the mind is frivolous and easily distracted, it misses progress by failing in consecutiveness and persistence. — George Santayana

Heavenly Father, we ask Your infinite grace and compassion in our desire to understand and examine our lives as a country, as a people, and as believers.

For our progress, within and without, has been in a compromisingly slow pace. Much of what we have encountered in the past, Father, have been simply forgotten.

Our retentiveness has been short and wanting. To our dismay, we have repeated our history's shortcomings.

Help us, Almighty God, to exercise discernment and vigilance in our daily lives, collectively and individually.

We pray, enable us to chart our path to identify every crossroad and silkroad, to be able to nurture a life that has learned from life-changing experiences.

We pray, empower us to keep with the truth that our character is an omen of our destiny and the more integrity we have to keep, the simpler and noble that destiny is likely to be.

Guide us with Your infallible wisdom as we correct our errors along the way and believe in the newness of the day.

This we ask in Jesus' Name. Amen.

NATIONAL ANTHEM

The Senate Choir led the singing of the national anthem.

ROLL CALL

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

Angara, E. J.	Lacson, P. M.
Arroyo, J. P.	Lapid, M. L. M.
Cayetano, C. P. S.	Lim, A. S.
Defensor Santiago, M.	Madrigal, M. A.
Drilon, F. M.	Osmeña III, S. R.
Ejercito Estrada, J.	Pangilinan, F. N.
Ejercito Estrada, L. L. P.	Pimentel Jr., A. Q.
Enrile, J. P.	Roxas, M.
Flavier, J. M.	Villar Jr., M. B.
Gordon, R. J.	

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

Senators Magsaysay and Recto arrived after the roll call

Senators Biazon and Revilla were on official mission.

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ACKNOWLEDGMENT OF THE PRESENCE OF GUESTS

At this juncture, Senator Pangilinan acknowledged the presence of the members of the Armed Forces of the Philippines Reserved Force.

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. 14 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. 851, entitled

AN ACT PROVIDING FOR THE SALARIES OF BARANGAY OFFICIALS AMENDING SEC. 393 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on Local Government

Senate Bill No. 852, entitled

AN ACT CREATING A COMMISSION ON MISSING PERSONS

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Justice and Human Rights; Public Order and Illegal Drugs; and Finance

Senate Bill No. 853, entitled

AN ACT INCREASING THE BENEFITS OF BARANGAY OFFICIALS, AMENDING FOR THE PURPOSE SECTION 393 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991, CREATING A NATIONAL BARANGAY BENEFITS AUGMENTATION FUND, AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

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

Senate Bill No. 854, entitled

AN ACT ESTABLISHING A YOUTH CENTER IN THE FIFTEEN (15) REGIONS OF THE PHILIPPINES AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Youth, Women and Family Relations; Social Justice, Welfare and Rural Development; Ways and Means; and Finance

Senate Bill No. 855, entitled

AN ACT AMENDING SECTION 325 (A) OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991, AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on Local Government

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Senate Bill No. 856, entitled

AN ACT PROVIDING FOR A
NATIONAL BAMBOO AND
RATTAN DEVELOPMENT
PROGRAM HARMONIZING
ECOLOGICAL BALANCE, WITH
INDUSTRIAL DEVELOPMENT
AND APPROPRIATING FUNDS
THEREFOR

Introduced by Senator Jinggoy Ejercito
Estrada

**To the Committees on Environment
and Natural Resources; Local Government;
and Finance**

Senate Bill No. 857, entitled

AN ACT CREATING THE BAKERY
INDUSTRY DEVELOPMENT
BOARD AS ATTACHED AGENCY
OF THE DEPARTMENT OF
TRADE AND INDUSTRY,
AMENDING FOR THAT PURPOSE
TITLE X, BOOK IV OF
EXECUTIVE ORDER 292, THE
ADMINISTRATIVE CODE OF
1987, AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito
Estrada

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

Senate Bill No. 858, entitled

AN ACT LIBERALIZING THE
LICENSING OF TRAVEL AND
TOUR AGENCIES

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committee on Tourism

Senate Bill No. 859, entitled

AN ACT ESTABLISHING THE
NATIONAL EMPLOYMENT
ASSISTANCE CENTER OF
THE PHILIPPINES AND
APPROPRIATING FUNDS
THEREFOR

Introduced by Senator Jinggoy Ejercito
Estrada

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

Senate Bill No. 860, entitled

AN ACT INSTITUTING REGULATORY
POLICIES FOR THE HOUSEHOLD
EMPLOYMENT INDUSTRY,
ESTABLISHING STANDARDS OF
PROTECTION AND PROMOTING
OF THEIR WELFARE AND OF
THEIR FAMILIES, AMENDING
FOR THIS PURPOSE PERTINENT
PROVISIONS OF PRESIDENTIAL
DECREE NUMBER 442, OTHER-
WISE KNOWN AS THE LABOR
CODE OF THE PHILIPPINES AND
FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito
Estrada

**To the Committee on Labor, Employment
and Human Resources Development**

Senate Bill No. 861, entitled

AN ACT REPEALING SECTION 90
OF REPUBLIC ACT NO. 7160,
OTHERWISE KNOWN AS THE
LOCAL GOVERNMENT CODE
OF 1991, PROHIBITING AND
LIMITING THE PRACTICE
OF PROFESSION BY ELECTED
LOCAL GOVERNMENT OFFICIALS

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Introduced by Senator Jinggoy Ejercito
Estrada

To the Committee on Local Government

Senate Bill No. 862, entitled

AN ACT PROVIDING FOR GREATER FISCAL AUTONOMY IN FAVOR OF LOCAL GOVERNMENT UNITS (LGUs) IN THE CHOICE OF DEPOSITORY BANKS, AMENDING SECTION 311 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committee on Local Government

Senate Bill No. 863, entitled

AN ACT AMENDING SECTION 285 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991, PROVIDING FOR THE REALLOCATION OF THE INTERNAL REVENUE ALLOTMENT OF LOCAL GOVERNMENT UNITS

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on Local Government; and Finance

Senate Bill No. 864, entitled

AN ACT EXPANDING THE PURPOSES AND APPLICATION OF THE SPECIAL EDUCATION FUND (SEF) AMENDING FOR THE PURPOSE SECTION 272 OF REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991 AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on Local Government; and Education, Arts and Culture

Senate Bill No. 865, entitled

AN ACT PROVIDING FOR A NATIONAL SECURITY POLICY AND PLANNING FRAMEWORK AND CREATING AN INSTITUTIONAL MECHANISM FOR IMPLEMENTATION AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on National Defense and Security; and Public Order and Illegal Drugs

Senate Bill No. 866, entitled

AN ACT ESTABLISHING AT LEAST ONE (1) SPECIAL EDUCATION (SPED) CENTER FOR EACH SCHOOL DIVISION AND AT LEAST THREE (3) SPED CENTERS IN EVERY SCHOOL DIVISIONS FOR CHILDREN WITH SPECIAL NEED (CSN's), CREATING THE IMPLEMENTING MACHINERY THEREOF, PROVIDING GUIDELINES FOR GOVERNMENT FINANCIAL ASSISTANCE AND OTHER INCENTIVES AND SUPPORT AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

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

Senate Bill No. 867, entitled

AN ACT BROADENING THE SCOPE OF COMPLIANCE AND

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EXPANDING THE CONDUIT NETWORK FOR AGRI-AGRA CREDIT, AMENDING FOR THIS PURPOSE PRESIDENTIAL DECREE 717 OTHERWISE KNOWN AS THE AGRI-AGRA LAW

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Banks, Financial Institutions and Currencies; and Agriculture and Food

Senate Bill No. 868, entitled

AN ACT RATIONALIZING THE INTERNAL REVENUE ALLOTMENTS OF LOCAL GOVERNMENT UNITS AMENDING FOR THIS PURPOSE REPUBLIC ACT NUMBERED 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Local Government; and Finance

Senate Bill No. 869, entitled

AN ACT REGULATING THE POWER OF THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR) TO ESTABLISH, OPERATE AND MAINTAIN CASINOS IN THE COUNTRY, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1869, AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Government Corporations and Public Enterprises; and Games, Amusement and Sports

Senate Bill No. 870, entitled

AN ACT TO PROFESSIONALIZE THE PRACTICE OF PRISON MANAGEMENT AND SET FOR THAT PURPOSE THE QUALIFICATIONS FOR SUPERINTENDENTS OF THE NATIONAL PRISON SYSTEM AND WARDENS OF PROVINCIAL, CITY OR MUNICIPAL JAILS

Introduced by Senator Jinggoy Ejercito Estrada

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

Senate Bill No. 871, entitled

AN ACT TO DEFINE AND PENALIZE ACTS OF TERRORISM AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Public Order and Illegal Drugs; Justice and Human Rights; and Finance

Senate Bill No. 872, entitled

AN ACT MAKING MUNICIPAL SEA WATER WITHIN THE FIFTEEN-KILOMETER RADIUS JURISDICTION PART OF THE INTERNAL REVENUE ALLOTMENT COMPUTATION FOR MUNICIPALITIES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Local Government; and Environment and Natural Resources

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Senate Bill No. 873, entitled

AN ACT GRANTING HAZARD PAY
TO ALL DULY-APPOINTED
MEMBERS OF BARANGAY
TANOD BRIGADES DURING
THEIR INCUMBENCY,
APPROPRIATING FUNDS
THEREFOR

Introduced by Senator Jinggoy Ejercito
Estrada

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

Senate Bill No. 874, entitled

AN ACT TO ENSURE EQUAL
EMPLOYMENT OPPORTUNITIES
TO MUSLIMS AND TRIBAL
FILIPINOS

Introduced by Senator Jinggoy Ejercito
Estrada

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

Senate Bill No. 875, entitled

AN ACT ESTABLISHING THE
NATIONAL DEFENSE UNIVERSITY
OF THE PHILIPPINES AND FOR
OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on National Defense
and Security; Education, Arts and Culture; and
Finance

Senate Bill No. 876, entitled

AN ACT RESTORING,
REHABILITATING AND
MODERNIZING THE OLD
AND EXISTING LINES OF
THE PHILIPPINE NATIONAL

RAILWAYS (PNR), EXTENDING
FURTHER THESE LINES AS
PROVIDED UNDER R.A. NO. 6366
TO PROVIDE A VIABLE PUBLIC
RAILWAY TRANSPORT AND
APPROPRIATING FUNDS
NECESSARY THEREFOR

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on Government
Corporations and Public Enterprises; Public
Services; and Finance

Senate Bill No. 877, entitled

AN ACT PROHIBITING THE
DEMONSTRATION, PERFORMANCE
OR EXHIBITION IN PUBLIC
OF CERTAIN SEXUAL ACTS,
AND THE PRODUCTION,
IMPORTATION, SALE OR
DISTRIBUTION, OR PUBLIC
SHOWING OR DISPLAY OF
PORNOGRAPHIC MATERIALS,
PROVIDING PENALTIES
THEREFOR, AND FOR OTHER
PURPOSES

Introduced by Jinggoy Ejercito Estrada

To the Committees on Public Information
and Mass Media; and Constitutional
Amendments, Revision of Codes and Laws

Senate Bill No. 878, entitled

AN ACT PROVIDING FOR THE
DEVOLUTION OF THE
CONTROL, MANAGEMENT AND
OPERATION OF MUNICIPAL OR
TERTIARY PORTS FROM
THE PHILIPPINE PORTS
AUTHORITY TO LOCAL
GOVERNMENT UNITS, AND FOR
OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on Public Services;
and Local Government

Senate Bill No. 879, entitled

AN ACT EXEMPTING THE ALLOWABLE PERSONAL EXEMPTIONS OF INDIVIDUAL TAXPAYERS, AMENDING FOR THE PURPOSE SECTION 35 (A) AND (B) OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on Ways and Means

Senate Bill No. 880, entitled

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

Introduced by Senator Jinggoy Ejercito Estrada

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

Senate Bill No. 881, entitled

AN ACT TO PROMOTE AND ENCOURAGE THE ORGANIZATION AND SUSTAINED DEVELOPMENT OF COOPERATIVES AS INSTRUMENTS FOR THE FULFILLMENT OF THE BASIC NEED OF HOUSING FOR THE HOMELESS AND UNDERPRIVILEGED AND AMENDING FOR THAT PURPOSE REPUBLIC ACT NO. 6938, THE COOPERATIVE CODE OF THE PHILIPPINES AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Cooperatives; and Urban Planning, Housing and Resettlement

Senate Bill No. 882, entitled

AN ACT PROVIDING FREE AND SUITABLE PUBLIC EDUCATION FOR HANDICAPPED CHILDREN AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Jinggoy Ejercito Estrada

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

Senate Bill No. 883, entitled

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

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Constitutional Amendments, Revision of Codes and Laws; and Social Justice, Welfare and Rural Development

Senate Bill No. 884, 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 Jinggoy Ejercito Estrada

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

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Senate Bill No. 885, 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 Jinggoy Ejercito Estrada

To the Committees on Health and Demography; and Finance

Senate Bill No. 886, entitled

AN ACT PROVIDING FOR THE ESTABLISHMENT OF BARANGAY DRUGSTORES, OTHERWISE KNOWN AS "BOTICA SA BARANGAY," AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committees on Health and Demography; and Local Government

Senate Bill No. 887, entitled

AN ACT REQUIRING ALL GOVERNMENT AND PRIVATE HOSPITALS, MEDICAL CENTERS, CLINICS, INFIRMARIES, PUERICULTURE CENTERS TO GIVE FREE MEDICAL AND DENTAL ASSISTANCE TO INDIGENT CHILDREN

Introduced by Senator Jinggoy Ejercito Estrada

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

Senate Bill No. 888, entitled

AN ACT TO ESTABLISH A SOCIALIZED AND LOW-COST HOUSING LOAN RESTRUCTURING PROGRAM, PROVIDING THE MECHANISMS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on Urban Planning, Housing and Resettlement

Senate Bill No. 889, entitled

AN ACT ESTABLISHING A SPECIAL HOSPITAL FOR OVERSEAS CONTRACT WORKERS (OCWs) AND THEIR DEPENDENTS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

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

Senate Bill No. 890, entitled

AN ACT FURTHER ENSURING THE USE OF THE GENERIC NAMES IN THE MANUFACTURE, PRESCRIPTION AND DISTRIBUTION OF DRUGS AND MEDICINES AMENDING FOR THE PURPOSE CERTAIN SECTIONS OF REPUBLIC ACT NUMBERED 6675, OTHERWISE KNOWN AS THE "GENERIC ACT OF 1988," AND FOR OTHER PURPOSES

Introduced by Senator Jinggoy Ejercito Estrada

To the Committee on Health and Demography

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Senate Bill No. 891, entitled

AN ACT EMPOWERING WOMEN
BY PROVIDING THEM WITH
FINANCIAL EDUCATIONAL AND
INFORMATION ASSISTANCE IN
ORDER FOR THEM TO EXCEL IN
COMMERCE AND TRADE

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on Youth, Women and
Family Relations; Trade and Commerce; and
Finance

Senate Bill No. 892, entitled

AN ACT PROVIDING FOR
EDUCATIONAL BENEFITS FOR
THE MINOR CHILDREN OF
SOLDIERS AND POLICEMEN
WHO ARE KILLED BY
INSURGENTS OR SLAIN IN THE
LINE OF DUTY AND FOR OTHER
PURPOSES

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on Public Order and
Illegal Drugs; National Defense and Security;
and Finance

Senate Bill No. 893, entitled

AN ACT TO AMEND REPUBLIC
ACT 8042 ENTITLED, "AN ACT
TO INSTITUTE THE POLICIES
OF THE OVERSEAS EMPLOY-
MENT AND ESTABLISH A
HIGHER STANDARD OF
PROTECTION AND PROMOTION
OF THE WELFARE OF MIGRANT
WORKERS, THEIR FAMILIES
AND OVERSEAS FILIPINOS IN
DISTRESS AND FOR OTHER
PURPOSES"

Introduced by Senator Jinggoy Ejercito
Estrada

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

Senate Bill No. 894, entitled

AN ACT AMENDING SECTION 140 (a)
OF REPUBLIC ACT NO. 7160,
OTHERWISE KNOWN AS THE
LOCAL GOVERNMENT CODE
OF 1991, AND FOR OTHER
PURPOSES

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committee on Local Government

Senate Bill No. 895, entitled

AN ACT PROVIDING FOR A
COLLEGE EDUCATION TRUST
FUND FOR CHILDREN OF GSIS
AND SSS MEMBERS

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on Government
Corporations and Public Enterprises; and
Education, Arts and Culture

Senate Bill No. 896, entitled

AN ACT PROVIDING FOR FREE
MEDICINE AND OTHER BASIC
MEDICAL SUPPLIES TO ANY
PRIVATE PERSON OR INDIVIDUAL
INJURED OR WOUNDED DURING
A MILITARY OR GOVERNMENT
OPERATION

Introduced by Senator Jinggoy Ejercito
Estrada

To the Committees on National Defense
and Security; and Health and Demography

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Senate Bill No. 897, entitled

**AN ACT PROVIDING FOR A MAGNA
CARTA OF SOCIAL WORKERS**

Introduced by Senator Jinggoy Ejercito
Estrada

**To the Committee on Social Justice, Welfare
and Rural Development**

Senate Bill No. 898, entitled

**AN ACT PROVIDING TAX
INCENTIVES TO DEVELOPERS
AND BUILDERS OF RESIDENTIAL
BUILDING AND/OR HOUSING
PROJECTS BY EXEMPTING THEM
FROM THE PAYMENT OF REAL
ESTATE TAXES, DEFINING THE
CONDITION THEREOF AND FOR
OTHER PURPOSES**

Introduced by Senator Jinggoy Ejercito
Estrada

**To the Committees on Ways and Means;
and Urban Planning, Housing and Resettlement**

Senate Bill No. 899, entitled

**AN ACT TO STRENGTHEN THE
STRUCTURE, CAPABILITY FOR
EFFICIENT AND EFFECTIVE
PROGRAM IMPLEMENTATION
AND ORGANIZATIONAL
MANAGEMENT, AND ALIGN
THE DIRECTION OF EXISTING
AND FUTURE COOPERATIVES
TOWARDS PEOPLE
EMPOWERMENT AND
BALANCED SUSTAINED
ECONOMIC DEVELOPMENT OF
ALL COOPERATIVES, AMENDING
FOR THAT PURPOSE REPUBLIC
ACT 6938, THE COOPERATIVE
CODE OF THE PHILIPPINES,
AND FOR OTHER PURPOSES**

Introduced by Senator Jinggoy Ejercito
Estrada

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

Senate Bill No. 900, entitled

**AN ACT DEFINING THE OFFENSE
OF ILLEGAL LOGGING IN
WATERSHEDS AND OTHER
PROTECTED AREAS AND
PROVIDING PENALTIES THERE-
FOR**

Introduced by Senator Jinggoy Ejercito
Estrada

**To the Committees on Environment and
Natural Resources; and Constitutional
Amendments, Revision of Codes and Laws**

RESOLUTIONS

Proposed Senate Resolution No. 54, entitled

**RESOLUTION AUTHORIZING ALL
PERMANENT COMMITTEES OF
THE SENATE TO HOLD
MEETINGS, HEARINGS OR
CONFERENCES DURING THE
RECESS OF THE CONGRESS
FOR THE PURPOSE OF
STUDYING AND PREPARING
ANY PROPOSED LEGISLATION
OR TO INVESTIGATE ANY
MATTER OR SUBJECT FALLING
UNDER THEIR JURISDICTION
AND AUTHORIZING THE
PRESIDENT OF THE SENATE, IN
HIS DISCRETION, TO ALLOW
ANY SPECIAL COMMITTEE TO
HOLD MEETINGS, HEARINGS OR
CONFERENCES DURING
THE RECESS FOR THE SAME
PURPOSE**

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Introduced by Senator Pangilinan

To the Committee on Rules

Proposed Senate Resolution No. 55, entitled

RESOLUTION REMINDING THE ENTIRE NATION OF THE SACRIFICES AND HEROIC DEEDS OF FORMER PRESIDENT MANUEL L. QUEZON AND FORMER SENATOR BENIGNO "NINOY" AQUINO JR.

Introduced by Senator Lim

To the Committee on Education, Arts and Culture

Proposed Senate Resolution No. 57, entitled

RESOLUTION CALLING FOR THE REDUCTION BY FIFTY PERCENT (50%) OF THE SENATORS' PRIORITY DEVELOPMENT ASSISTANCE FUND FOR THE YEAR 2005 IN FAVOR OF THE TEN POINT AGENDA OF THE NATIONAL GOVERNMENT

Introduced by Senators Pangilinan, Recto, Drilon, Biazon, Compañera Pia S. Cayetano, Flavier, Gordon, Manuel "Lito" M. Lapid, and Magsaysay Jr.

To the Committee on Rules

ADDITIONAL REFERENCE OF BUSINESS

RESOLUTIONS

Proposed Senate Resolution No. 58, entitled

RESOLUTION URGING ALL THE MEMBERS OF THE SENATE TO FOREGO ONE HUNDRED PERCENT (100%) OF THEIR CONGRESSIONAL INITIATIVE ALLOCATION AND THE

PRIORITY DEVELOPMENT ASSISTANCE FUND FOR THE YEAR 2005 TO HELP REDUCE THE PROJECTED BUDGET DEFICIT OF THE NATIONAL GOVERNMENT BY SAVING ALMOST FIVE BILLION PESOS

Introduced by Senator Ramon Bong Revilla Jr.

To the Committee on Rules

Proposed Senate Resolution No. 59, entitled

RESOLUTION RECOGNIZING AND COMMENDING THE ROLE OF THE FILIPINO RESERVISTS, THE CITIZENS ARMED FORCE OF THE ARMED FORCES OF THE PHILIPPINES, CITING ITS CONTRIBUTION TO NATIONAL DEFENSE, SECURITY AND NATION-BUILDING

Introduced by Senator Magsaysay Jr.

To the Committee on National Defense and Security

SUSPENSION OF SESSION

With the permission of the Body, the Chair suspended the session.

It was 3:46 p.m.

RESUMPTION OF SESSION

At 3:47 p.m., the session was resumed with Senate President Pro Tempore Flavier presiding.

PRIVILEGE SPEECH OF SENATOR DEFENSOR SANTIAGO

Availing herself of the privilege hour, Senator Defensor Santiago delivered the following speech:

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**DEEPENING THE
FISCAL CRISIS BY P748B
"NON-BUDGETARY ACCOUNTS"
AND OFF-BOOK ITEMS**

Pork barrel pales in comparison

The congressional pork barrel is not a new controversy. It is decades old. In 1992, I ran for president under a platform that included the abolition of all pork barrel for all branches of government. After I was elected senator in 1995, I delivered a privilege speech to amplify this theme, and a summary of my speech is included in the book by the Philippine Center for Investigative Journalism. To prove the point, I was the only senator in the Eleventh Congress to refuse to receive the pork barrel known as Congressional Initiative Allocation, on the ground that it had no constitutional basis.

The recent upsurge of the periodic denunciation of pork barrel has stemmed from the academic paper entitled, "The Deepening Crisis: The Real Score on Deficits and the Public Debt," issued recently by 11 professors of the U.P. School of Economics. The paper listed certain cost-saving measures, such as cutting in half the Countrywide Development Fund (CDF) allocations, such that 24 senators will receive only P100 million each, and 236 representatives only P35 million each, thus contributing a take of P10.7 billion to the national treasury.

But the national government deficit, of which pork barrel is a part, is not the most important indicator of our country's fiscal situation. In other words, we are barking up the wrong tree.

Building up debt thru "non-budgetary accounts"

The better indicators of how the fiscal situation has deteriorated or improved are the following:

- * The consolidated public sector deficit (or CPSD), which is expected to reach P307.8 billion. Thus, it will constitute 6.6% of GDP, the highest in recent years;
 - * The public sector borrowing requirement (or PSBR), which is expected to rise to its historic high of P336.4 billion. Thus, it will constitute 7.2% of GDP.
- A country is fiscally sound when the consolidated public sector deficit constitutes only 3% or less of GDP. Let us take note of this figure: it should only be 3% of GDP. Using this standard, the Philippines is definitely fiscally unsound on the basis of the following scientific predictions for fiscal year 2005:
- * Consolidated public sector deficit will reach 5% of GDP;
 - * Public sector borrowing requirement will reach 5.6% of GDP.

The accumulation of budget deficits explains only in part the growth in the public debt. Between 1997 and 2003, the national government's debt rose by P2.01 trillion, from P1.35 trillion to P3.36 trillion. Of this increase, less than half (43 percent) was due to deficits incurred by the national government during the same period. And now I would like to emphasize this singular point. More than one-third (37.3 percent) of the buildup in debt is not due to accumulated deficits, is not due to the pork barrel, even though it is often abused by those who dispensed them, but the buildup in our debt is mostly due to so-called "non-budgetary accounts" and off-book items, such as assumed liabilities and lending to government corporations. *Kaya naghahabol-habol tayo ng mga P21 billion in pork barrel dahil may mga opisyal pala na halos trilyon*

ang ginagastos na hindi nakalagay sa badyet.

In the period 1997-2003, the debt increase was caused for the most part by non-budget accounts of P320.55 billion, and by assumed liabilities and lending to corporations for P428.10 billion. The other causes were: national government deficit, P855.69 billion; exchange rate change, P377.54 billion; and increase in cash, P27.54 billion.

In other words, the non-budget accounts and the corporate loans alone account for P748.10 billion of the public debt. *Iyon ang habulin natin.* By comparison, even if we give the full pork barrel to each member of Congress, this would only amount to P21.4 billion. Yes, as I urged more than 10 years ago, let us reduce or even remove pork barrel; but first, let us investigate whether certain fiscal authorities might be making more illegal money, from non-budget accounts and corporate loans, than legislators might be making illegally from pork barrel.

To understand why the fiscal crisis is deepening, Congress needs to hold a Question Hour, so that the finance and budget secretaries can be given the chance to answer the following serious questions:

Question 1: Is the executive department using the automatic appropriation of debt service as a means of supporting government corporations? If so, what is its legal basis? *Galit ang lahat sa pork barrel. Sampung taon na ang nakalipas, mag-isa lang akong nagsabing tanggalin na iyang pork barrel na iyan, wala namang nagsuporta sa akin. Nag-privilege speech ako, walang kibo ang Kongreso. Ngayon na nadi-diyaryo ang senador o ang kongresman, lahat na ngayon ay gusto nang bawasan o kaya ay tanggalin nang tuluyan ang pork*

barrel. Pero hindi tayo nagtatanong: Ano ang base-legal ng mga cabinet members na kinauukulan para gumastos sila ng halos P800 bilyon ng pera ng gobyerno na hindi nakalagay sa loob ng badyet at walang batas na napairal sa Kongreso na binibigyang pahintulot iyong mga paggastos na iyon?

What is the legal basis? The 1987 Constitution provides that no money shall be paid out of the treasury, except in pursuance of an appropriation made by law. We are all now pointing fingers at our own selves. We are now filled with guilt because we have been receiving pork barrel and perhaps abusing them, in the case of at least a few. For all these many years I have been trying to fight it, but nobody ever bothered to raise the question whether certain cabinet members are discharging illegal powers far more extensive in scope and far more injurious to the National Treasury than the matter of pork barrel.

Question 2: Specifically, when the treasury ends up buying bonds amounting to P200 billion to help the National Power Corporation service its debt, does this transaction fall under the law that allows the automatic appropriation of the debt service? If not, what legal basis did the National Treasury use?

Question 3: Did the Department of Finance or the Department of Budget and Management state explicitly these off-budget transactions in their quarterly reports to the House of Representatives and to the Senate as required by the General Appropriations Act? If yes, how was it handled respectively by the Committee on Appropriations, and by the Committee on Finance? If not, what sanctions were applied? Fiscal transparency requires that there should be a specific consequence for either good or bad fiscal behavior on the part of fiscal authorities.

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Sa madaling salita, hinihingi ko sa ating mga kasamahan na pag-aralang mabuti itong pork barrel na ito. Noong una kong iminungkahi ito noong ako ay unang naging senador noong 1995, some political science professors in U.P. said, "Wait, let us reexamine your position. It might be that pork barrel is part of a mechanism of distributive justice. And remember, pork barrel is authorized both by the Constitution and by the General Appropriations Act."

Pero itong pinag-uusapan natin sa kabila ng ang pork barrel ay P20 bilyon lamang sa isang taon, ito ay nagkakahalaga ng P750 billion na walang base sa saligang batas at walang base sa batas. Saan sila kumuha ng ganitong kapangyarihan? Tingin nila ay mas mataas pa sila sa mga senador at sa mga representante na nagpapakahirap makaupo dito sa bahay na ito dahil mangang-ampanya pa at magpapaliwanag pa sa mga botante? Sila, tahimik lamang sa sulok nila pero nakakakuha ng P750 billion. At hindi lamang iyon.

The Reenacted Budget and Capital Outlays

What is the meaning of a reenacted budget? *Hindi ba ninyo alam na pag hindi napayagan ang budget ng Pangulo sa susunod na taon ng Kongreso ay automatic na iyong dating budget ang siya na lang susundin?* That is the meaning of a reenacted budget. That is how you understand it. But I assure you, this is a tricky question.

The Arroyo administration operated on a reenacted budget in 2001, and is operating again on a reenacted budget this year based on 2003. Former budget secretary, now U.P. Prof. Benjamin Diokno, always took the position, based on a study made by the DBM's legal department during the Arroyo administration, that the reenactment of a budget means that only the current

operating expenditures—meaning, Personal Services and Maintenance and Other Operating Expenditures — are reenacted. The Capital Outlays component of the previous year's budget is not deemed reenacted because, by its nature, Capital Outlays are non-recurring. For example, a P100 million appropriation for a specific highway in fiscal year 2003 should not be considered reenacted for fiscal year 2004.

I am willing to admit that a gray area would be a foreign-assisted project, because it is usually multi-year, and covered by forward obligational authority issued by the Philippine government when the loan for the project was negotiated. But in any event, the current year's appropriation, plus all the previous years' actual disbursements should not exceed the value of the loan. The bottom line is that Capital Outlays, as a general rule, are not deemed reenacted.

Surprisingly, it would appear that the Arroyo administration has a different, perhaps unlawful, interpretation. Tables B.1 entitled "Expenditure Program" and A.5 entitled "Public Sector Infrastructure Budget" show that the Executive Department has programmed for fiscal year 2004, based on a reenacted fiscal year 2003 budget, a significant amount of Capital Outlays. Thus:

Capital Outlays for Fiscal Year 2003 -
P81,274,104,000 or P81 billion

Capital Outlays for Fiscal year 2004 -
P63,240,221,000 or P63 billion

It appears that the Executive Department has no legal basis in programming P63.2 billion for Capital Outlays because the previous Congress has never approved the President's proposed budget for fiscal year 2004.

This question, and those questions which I have previously raised, have not been squarely answered by the Executive

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department of the government. Therefore, I move that this speech be considered as a resolution summoning the former and present finance secretaries and the former and present budget secretaries to provide information on these questions that I have raised. I further move that the chairman of the rules committee designate the date and hour of this Question Hour which, under our Rules, shall be scheduled on Tuesdays at 5:00 p.m.

SUSPENSION OF SESSION

Upon motion of Senator Ejercito Estrada (J), the session was suspended.

It was 4:03 p.m.

RESUMPTION OF SESSION

At 4:07 p.m., the session was resumed.

PRIVILEGE SPEECH OF SENATOR EJERCITO ESTRADA (J)

Availing himself of the privilege hour, Senator Ejercito Estrada (J) delivered the following speech:

QUO VADIS: PHILIPPINE DEMOCRACY?

Today, we observe and commemorate the historic Battle of Pinaglabanan which sparked the Filipino revolution against tyranny and oppression. We pay tribute to the legacy of our heroes and martyrs who unselfishly sacrificed their lives for us to inherit and enjoy the precious gift of freedom and democracy we have today. But this legacy is now imperiled because of a creeping and growing pattern of suppression of the rights of our people to peaceful assembly.

I rise today to express the concern and apprehension of many of our citizens who find that the democratic space guaranteed by the Constitution is now being diminished.

During these past three years, we have witnessed systematic efforts on the part

of this dispensation to prohibit or disperse any form of assembly or any protest action seeking to express dissent against this government. This alarming pattern is now glaringly reflected in the rising number of places where dissent, demonstration or any manner of peaceful assembly is restricted, if not, completely prohibited. With every passing day, places where protests are banned are added to the growing list by paranoid law enforcement officials. The Edsa Shrine, that monument which was once a testimony to the restoration of democracy in our country, is now off limits and considered hallowed ground reserved for the exclusive use of an exclusive sector, depending, of course, on one's political and religious persuasion.

Ang Edsa Shrine po ay parang may exclusive franchise at hindi raw po puwedeng gamitin ng sinuman para sa pulitika. Ang tingin ko po diyan, ang sinumang tumututol sa maling palakad at patakaran ng pamahalaan, bawal po ang magtipon at magpahayag ng protesta roon.

Mendiola, also once the rallying symbol of dissent over unjust and oppressive government policies, is now also off limits. Likewise, the entire Malacañang complex and its periphery are also off limits, protected and fortified, and for the first time in our history, by electric fences.

Natatakot po ba si Ginang Arroyo sa sarili niyang mga kababayan?

Even the historic Plaza Miranda, that vaunted and shining symbol of our heritage of freedom, has been practically closed as a venue for our citizens to freely exercise their rights to express their grievances against the government. Today, you and I can no longer defend it in Plaza Miranda because any mass action will not be allowed there. Those distinguished statesmen of our rich and glorious past, now long gone, and who once stood there to freely express their

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political beliefs, must be turning in their graves.

The Quezon Memorial Circle and the Mabuhay Welcome Rotonda, once known as places where protesters can freely converge, are now also off limits to any form of assembly including prayer rallies identified with those that oppose this administration.

Last July 26 of this year, during the State of the Nation Address, even the roads leading to Commonwealth Avenue and the Batasang Pambansa have been added to the growing list of hallowed areas that may not be desecrated by dissent. In contrast, not only did President Joseph Estrada allow protesters during his SONA to enter the premises of the Batasang Pambansa complex, but he even had a dialogue with them inside the compound.

Any militant group, rightist or leftist, conservative or liberal, regardless of issue and persuasion, for as long as they are voicing out any grievance or protest against dispensation, will be confronted by a phalanx of riot police that sometimes even outnumber the demonstrators. They are asked to produce rally permits which, more often than not, are not given or released. Rally permits have become most difficult to obtain. And these are often the basis for police action to disperse the crowd. *Ang reklamo po ng ating mga kababayan, napakahirap po makakuha ng rally permit at ang kawalan po nito ang ginagawang dahilan upang hindi payagang matuloy ang mga protesta.*

It seems that violence in dispersal operations has become the rule rather than the exception these days. The examples are legion, from the dispersal in November 2003 in Makati to the June rally of FPJ supporters in Welcome Rotonda. And the sad part is that no investigations are made and the culprits are allowed to go scot-free. And only last June, even members of the clergy complained about

the arbitrary and high-handed occupation of the grounds of Sto. Domingo Church by PNP officers and men who were tasked to disperse the rally of FPJ supporters.

Recently, Neal Cruz of the *Philippine Daily Inquirer* wrote that the government is procuring smokeless tear gas as the latest addition to its dispersal arsenal. Heaven knows what other weapons of mass dispersal are in government hands today. These do not include professional agitators who are made to infiltrate the ranks of protesters so as to start an act that will provoke and justify police dispersal.

And again, last July 26, during the SONA, it was reported that around 12,000 policemen were deployed to secure the Batasan. I find this an overkill, pure and simple. *Katulad po ng pagkakahuli sa amin ni Pangulong Joseph Estrada tatlong taon na ang nakakaraan.*

These police officers are mobilized and pitted against decent and patriotic citizens exercising their constitutional rights of free assembly and protest, when they should be instead patrolling the streets. Criminal elements are having a field day, snatching cellphones and handbags, robbing, mugging, kidnapping, drug pushing, perpetrating other crimes because the police are too busy suppressing the rights of freedom-loving citizens.

Many respected citizens, journalists, judges, government officials, businessmen and even police officers have been the victims of ambushes and violent crimes. Is it because our police are deployed and preoccupied in suppressing the dissent of law-abiding citizens whose only fault is that they disagree with the government and its policies?

Marahil, kaya po lumalaganap ang krimen sa ating lungsod at kanayunan ay sa kadahilanang karamihan sa ating mga pulis ay naroon po sa dispersal

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operations sa halip na bantayan ang ating mga lansangan. But I do not blame the ranks of our police officers. They cannot entirely be faulted for they are just following instructions and are performing what they believe to be their duty.

One thing is also certain: scores of demonstrators and police officers have been hurt and many more will be hurt. We have perhaps lost track of statistics of people injured, maimed or even killed in these confrontations. The protesters will be dispersed forcibly by water canons, tear gas and truncheons. Innocent women and children are not exempt from violent dispersals. There were even cases when only around 50 persons assembling in protest were dispersed. As an example, Ms Armida Siguion Reyna was dosed with water cannon while speaking in a rally without any provocation and no apparent clear and present danger threatening the state.

Last July 13, Carol Araullo, a leader of a militant group, was bashed on the head. To use Voltaire's dictum, I may not agree with her political persuasion or belief but I will defend her right to express it.

Are we now becoming a tear gas and truncheon society where the redress of grievance in the streets is prohibited? *Naaawa po ako sa mga kababayan natin, lalung lalo na po sa mga hanay ng mga mahihirap na ang kakaunti at nalalabi nilang karapatan ay inaalisan pa po sa kanila ngayon.* This has now become a familiar drama: a recurring refrain in the so-called parliament of the streets, which has now resurfaced and which we thought was but a fleeting reminder of the martial law era. The democratic space guaranteed by the Constitution is gradually being taken from us now.

And this drama in our streets will continue unless this government and its

minions reread and take to heart what Article III, Section 4 of our Constitution expressly provides. As a fitting reminder to those who have forgotten or have chosen to forget, I quote: "No law shall be passed abridging the freedom of speech, of expression, or of the press or the right of the people to peaceably assemble and petition the government for redress of grievances." The Constitution did not require that a rally permit is a necessary requisite in the exercise of these freedoms.

Gradually, before our very eyes, we see our rights being diminished and marginalized. We see our freedoms vanishing and our democracy eroding steadily because of this administration that has practically abandoned all pretenses to maximum tolerance of dissent.

During the term of President Corazon C. Aquino, maximum tolerance was the policy, though of course, one cannot ignore the unfortunate dispersal of farmer-protesters in Mendiola which resulted in death and injuries. And so with that of President Fidel V. Ramos and more so, with that of President Joseph Ejercito Estrada. But since Edsa 3, the democratic space that we used to know has rapidly shrunk.

As defined under Section 3, paragraph (b) of Batas Pambansa Blg. 880, otherwise known as the Public Assembly Act of 1985, the very law that enshrines the constitutional guarantee and right of our people to peaceably assemble for redress of grievance, states and I quote: "Maximum tolerance means the highest degree of restraint that the military, police and other peacekeeping authorities shall observe during a public assembly or in the dispersal of the same." It is perhaps ironic that this law enacted during the martial law era is now violated under a supposedly free and democratic regime. It seems that what we have today is a policy of minimum or zero tolerance where dissenters are dispersed with no provocation at all.

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It is also significant to note that this law also provides under Section 10 paragraph (b) and I quote: "The members of the law enforcement shall not," I repeat, "shall not carry any firearms, but may be equipped with baton or riot sticks, shields, crash helmets with visor, gas masks, boots or ankle-high shoes with shin guards." Take note, the police are not allowed to carry firearms.

The same section under paragraph (c) also states, and again, I quote: "Tear gas, smoke grenades, water cannons or any similar anti-riot device shall not be used unless the public assembly is attended by actual violence or serious threats of violence or deliberate destruction of property." It is ironic that these orders for dispersal reflect gross ignorance of the law on the part of the very persons mandated to faithfully execute our laws and defend the Constitution.

This is a government that has seen fit to compromise these freedoms in the name of familiar excuses often used by many authoritarian rulers and those who assume power without legitimacy or the express consent of the governed.

This government cries "destabilization" every time it is confronted with dissent while conveniently ignoring widespread criminality, poverty and corruption. We have heard these justifications much too often to give them credence: destabilization plots, national security, terrorism and many such other creative and innovative labels and rationalizations.

Are we now approaching a state of undeclared martial law? *Unti-unti po ba tayong bumabalik sa batas militar?* Are we now entering an era of brutal conjugal rule masquerading as a democracy? Are we gradually evolving into a police state where any form of dissent is repressed? Are we slowly being transformed into a garrison society where dispersal and arrests are made even among groups conducting prayer rallies? Perhaps not. I hope not.

But given the trend we are witnessing today, we seem to be approaching that direction if good and decent citizens choose to do nothing to check this arrogant and naked display of misguided power.

I speak today not only for protestors or demonstrators who have grievances against this government. I speak in behalf of our people who would like to protect and preserve their democratic rights. I speak for our constituents, yours and mine. I speak for the future of our democracy.

I am prepared to be proven wrong in all these. But if my history serves me right, I remember that the late Sen. Benigno S. Aquino Jr. once stood before this very Chamber to warn against the imposition of martial law. They did not listen and that was a mistake.

We cannot commit the same mistake again and I seek the intervention of all good and freedom-loving men and women, not only of this Chamber, but of the entire Republic to exercise vigilance against a creeping trend towards the suppression and repression of our freedom. We cannot and must not commit the same mistake again for our imperiled democracy because the costs and stakes are much too high.

President Joseph Estrada, during his presidency, not only tolerated dissent but allowed the people to freely converge at EDSA even without a permit and without any threat of dispersal. In doing so, he rose above his and his family's sense of pain in the face of vicious and malicious attacks against his person.

He quietly took all the lies, the vulgarities and the insults that were hurled from the supposed sacred place that was called the "EDSA Shrine." And so, everyone who hated or disliked him for their own reasons had their fill. This went on for days, becoming more pernicious each day, and it did not stop for

no one stopped them until they got what they wanted: the illegal and unconstitutional ouster of President Joseph Ejercito Estrada.

Some say it was a mistake on President Estrada's part that he did not lift a finger to disperse the crowd at EDSA. I say that history will have a better judgment for President Estrada who chose to respect our people's basic freedom no matter if it cost him, as it eventually did, the presidency itself.

Mrs. Gloria Macapagal Arroyo got her fresh mandate from her COCs last election. Sadly, the COC we see today is a country of corruption. Shall we simply say "Noted"? A country of cheaters, shall we simply say "Noted"? And a country of cowards, again, shall we simply say "Noted"?

As I close, I have but one appeal: let us not allow the alienated to cross the line separating mere disenchantment and disaffection to outright armed struggle and rebellion. This country, burdened as it is, with so many problems, so many crosses to bear, cannot afford this now.

INTERPELLATION OF SENATOR DEFENSOR SANTIAGO

Senator Defensor Santiago stated that she was delighted that the speech referred to a specific right protected under the Constitution that she has written about in a number of textbooks and other literary works. She pointed out that the Public Assembly Act is unconstitutional because Section 4 of Article III of the Constitution provides that no law shall be passed abridging the freedom of speech, of expression or of the press or the right of the people to peaceful assembly. However, she said that while Congress had chosen to liberally interpret the constitutional provision, it has been passing laws that limit these basic rights which some constitutional law experts believe occupy the highest priority in the hierarchy of values of the Philippine constitutional system. If the movement to change the Constitution

succeeds, she stated, the matter could be brought up during the appropriate time.

Further, Senator Defensor Santiago disclosed that the Supreme Court ruled in a 1917 case that "the right to assemble and petition is a necessary consequence of republican institutions and a complement of the right of free speech," and in a later case in 1973, it ruled that "the freedom of expression and of assembly as well as the right to petition are included among the immunities reserved by the sovereign people." She stated that U.S. Supreme Court Justice Holmes believed that the ideas that people abhor or hate should be protected more than the ideas that they cherish; while Socrates insinuated to protect not only the minority who wanted to talk but also to benefit the majority who refused to listen.

Asked what law makes it a condition to obtain a permit before holding public assemblies, Senator Ejercito Estrada (J) replied that it is Batas Pambansa Blg. 880 that was enacted in 1985. As regards the provision in the local government code that limits public assemblies, he said that the local government unit is empowered to enact ordinances that include the procedure for obtaining permits for public assemblies.

Senator Defensor Santiago said that since these laws are an exception to the constitutional contemplation that the right to peaceably assemble should be interfered with in the least restrictive manner, they should be interpreted liberally as always in favor of such right. In the case of *Tatel vs. Virac*, she pointed out, the Supreme Court gave a list of standards for the exercise of police power by local government units when they regulate the right to peaceable assembly.

Senator Ejercito Estrada replied that the local government units must adhere to the three basic principles that require that the ordinance must not be unfair or oppressive; it must not contravene the Constitution or any of its statutes; and, it must not be partial or discriminatory.*

Pointing out that in a Supreme Court case in 1970, Justice Castro in a dissenting opinion said that "a law subjecting the exercise of Bill of

*As corrected by Senator Ejercito Estrada (J) on August 31, 2004

Right's freedoms to the prior restraint of a license without a narrow objective and definite standard to guide the licensing authority is unconstitutional," Senator Defensor Santiago said that there is a need to revisit the Public Assembly Act and determine the narrow objective and the definite standard to guide the licensing authority. She suggested that Senator Ejercito Estrada introduce a bill to address these concerns and promote the universal declaration of human rights.

Asked by Senator Defensor Santiago if the limitations placed by the Macapagal Arroyo Administration promote the interest of national security, public safety, public order, or intend to protect public health or morals as well as the rights and freedom of others, Senator Ejercito Estrada replied in the negative. He affirmed that the limitations imposed by the present administration might be contradictory to Article 21 of the Universal Declaration of Human Rights to which the Philippines is a signatory.

Senator Defensor Santiago stressed a dispositive portion from a 1983 Supreme Court ruling on freedom of assembly -- "It is not to be limited, much less denied, except on a showing of a clear and present danger of a substantive evil that the state has a right to prevent," adding that the term 'clear and present danger' is a test or a standard imposed by the Supreme Court in cases concerning free speech, press and peaceable assembly, in other words, the freedom of expression.

Asked what standard should be adopted by law-enforcement agencies in interpreting the phrase "clear and present danger," Senator Ejercito Estrada expressed the view that if a speech incites people to commit an intolerable evil, for example, the murder of a public official, such would constitute "clear and present danger." That speech, he believed, may be stifled or restricted.

Senator Defensor Santiago explained that fighting words are such that they aggravate the victim so much so that he is entitled to restrict the speaker's right to free expression. For example, she said, if one calls a person an idiot, he can punch him in the nose because "idiot" is a fighting word. She reiterated that "clear and present

danger" applies only to freedom of expression, which is a constellation of rights consisting of free speech, free press and free assembly. A common mistake in the Philippines, she explained, is to apply such test to issues involving national policy and constitutionally protected rights. She clarified that "clear and present danger" meant that the speech created danger to the State as when the speech encourages or induces the crowd to engage in an activity that is described as a crime under the Penal Code such as sedition, libel, and insurrection, among others. The second more important component, she said, is that danger is imminent, when, moved by the speech, people start taking action. She noted that generally, any administration, including the Macapagal Arroyo Administration, cannot impose any limits on free expression because no speaker in the country at present has the power to incite the crowd to action. She explained that if the leaders of EDSA III provoked the crowd to do something rowdy but no one even moved, then there would not be any case.

Senator Defensor Santiago observed that other standards such as those used to ensure the right to due process, should also apply as in the case of *Reyes vs. Bagatsing* decided by the Supreme Court in 1983. She noted that Senator Ejercito Estrada raised the issue of application for rally permits being refused arbitrarily. She agreed that the issuance of a rally permit, given the constitutional background as a general rule, should be mandatory except with reference to time, place and manner. She stressed that the Public Assembly Act does not give the mayor or the police the power to prohibit a certain assembly because they do not possess that discretion. She said that the mayor has the duty to issue the permit but can impose conditions on time or place so as to avoid traffic congestion and other inconveniences.

Adverting to *Reyes vs. Bagatsing*, Senator Defensor Santiago said that the Supreme Court ruled that the use of streets and public places for assembly has from ancient times been a part of the privileges and immunities, rights and liberties of citizens. She said that in law, such streets and parks are called public forums and a rally permit must be issued if the place applied for happens to be a street or a park.

To the observation that law enforcers and local officials should be fully educated on the consequences and implications of the public forum doctrine, Senator Ejercito Estrada agreed. He said that the list of places where protests are banned is growing. The places, he noted, are those that have been historically associated with the venerated right to peacefully assemble like Plaza Miranda. He believed that prohibiting the use of such a venue is unconstitutional because it is tantamount to censorship.

INTERPELLATION OF SENATOR EJERCITO ESTRADA (L)

Senator Ejercito Estrada (L) sought clarification on the importance of Pinaglabanan Day. In response, Senator Ejercito Estrada (J) recalled that at 4 o'clock in the morning of August 30, 1896, about 800 *katipuneros* attacked *El Pulvurin*, a Spanish arsenal, aiming to secure more arms. The *katipuneros* bravely fought and attacked the Spaniards, he said, but did not have the military skills and lost the battle. He said that *the Battle of Pinaglabanan* commemorates the physical show of dissent against an oppressive and tyrannical government, with no democratic space nor dissent allowed such as mirrored in the present policy of the Macapagal Arroyo Administration. He averred that the history of Pinaglabanan should be an enduring lesson for today.

Senator Ejercito Estrada (L) recalled that in the SONA last July about 12,000 policemen were deployed to secure the Batasan area, which was an overkill.

Asked how many soldiers came to arrest him and his father on April 25, 2001, Senator Ejercito Estrada (J) replied that he could not remember the exact number but their residence and the nearby streets were filled with policemen. He said that the PNP hierarchy directed a battalion of police to conduct the arrest.

Senator Ejercito Estrada (L) recalled that during that time, the four major services of the Armed Forces were used. She said that there were countless soldiers in their lawn, front yard, rooftops of their house and their neighbor's

houses; a helicopter hovered as if to arrest a hundred criminals. She bewailed that it was a moment of humiliation, mortification, anguish and sorrow that could never be forgotten. She informed the Body that mugshots of Senator Ejercito Estrada (J) and the President were taken at Camp Crame and that triggered EDSA III.

Senator Ejercito Estrada (L) believed that their election was a vindication for former President Joseph Ejercito Estrada; furthermore, it was historically significant as it was the first time that a mother and son were elected to the Senate.

Asked where in Metro Manila are the freedom parks that can be used as venues for people to air their grievances, Senator Ejercito Estrada (J) replied that he had a listing of the freedom parks but that there are none in Metro Manila.

Upon further query, Senator Ejercito Estrada (J) explained that while the establishment of freedom parks is mandated by BP Blg. 880, none of the Metro Manila mayors were aware of it. Moreover, he said that San Juan is too small place for the people to hold rallies. He noted that no one had applied for a permit to hold rallies in San Juan during his term as mayor.

INTERPELLATION OF SENATOR ENRILE

Senator Enrile noted that Senator Ejercito Estrada's speech commemorated the historic Battle of Pinaglabanan as he recalled that the participants fought in Pinaglabanan with the objective of gaining the country's independence.

Asked whether the administration's present policies on this matter go against the spirit of that historic event, Senator Ejercito Estrada (J) replied in the affirmative.

Senator Enrile observed that nowadays even peaceful street rallies are being prohibited by the administration even though, as Senator Defensor Santiago had pointed out, the Filipino people's right to peacefully assemble and air their grievances is guaranteed under the Constitution and that no law could suppress such right. Senator Ejercito Estrada agreed.

Asked whether prohibiting the people from holding peaceful street rallies is symbolic of a truly strong Republic, Senator Ejercito Estrada replied in the negative.

As to whether such a policy is indicative of society's ills that stem from the suppression of the right of the people to air their grievances against those in power, Senator Ejercito Estrada replied in the affirmative.

If the suppression of this freedom continues, Senator Enrile warned that there would come a time when the people's collective sentiments would be violently expressed. Senator Ejercito Estrada agreed, noting that most of the administration's allies do not give rally permits to supporters of the opposition.

Upon further query, Senator Ejercito Estrada agreed to the observation that the fact that the country's leaders did not even consider their actions to be a form of control and suppression particularly in the light of the prevailing poverty, indicates that the administration is not secure in its governance.

Senator Enrile noted that Mendiola, Plaza Miranda and Quezon Memorial are all historically significant in the Filipino's quest for democracy. He noted that the bombing of the Liberal Party's political rally in Plaza Miranda on August 21, 1971, was one of the most violent incidents in the history of the Philippines.

Asked if he believed that the perpetrators of the Plaza Miranda bombing wanted to establish a dictatorship at that time, Senator Ejercito Estrada conceded that Senator Enrile was more knowledgeable about the incident.

Senator Enrile said the information about the perpetrators' motive came from a military officer, Victor Corpus.* This, he added, was the reason he lost his senatorial bid in 1971.

Noting that the past administrations allowed those who supported and those who opposed the prevailing democratic ideology to air their sentiments at Mendiola, Senator Enrile wondered why the present leadership forbids other freedom-

loving Filipinos to rally in this historic place. Senator Ejercito Estrada surmised that the present administration may be afraid of its own shadow.

Senator Enrile said the administration has no reason to be afraid because it had been given the mandate by the people. On the other hand, he recalled that it was also in Mendiola where the peaceful rally of some farmers ended in a massacre. He added that up to now, there has been no investigation into the incident and that the victims have not been given justice as the perpetrators behind the crime have not been identified. Senator Ejercito Estrada said that he mentioned the incident in his speech.

Relative thereto, Senator Enrile noted that the purpose behind the crafting of the 1987 Constitution was to maintain a just and humane society. However, he questioned whether the Mendiola massacre and the brute physical force used against the protesters could aptly describe such a society. Senator Ejercito Estrada said it did not.

Senator Enrile stated that President Quezon symbolized the country's struggle to attain freedom. He wondered why the Quezon Memorial Park which had been named in honor of the late President could not be used by Filipinos to hold peaceful gatherings to express their sentiments against the administration. Senator Ejercito Estrada admitted that he himself did not understand why the people's right to peacefully assemble continues to be suppressed.

Asked whether the people who would rally in front of the Jose Rizal monument would also be dispersed, Senator Ejercito Estrada replied that they would not so long as they do not espouse a political issue, in which case, the police might take a different attitude. Nevertheless, he opined that only rallyists who are identified with the administration would be able to get a permit to rally.

Asked if he would be amenable to crafting a law that would make Luneta similar to that of the Boston freedom park where people are allowed to stage rallies and express their sentiments against the government, Senator Ejercito Estrada replied in the affirmative. Relative thereto, he

*As corrected by Senator Enrile on August 31, 2004

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stressed the need to amend Batas Pambansa Blg. 880 because some of its provisions are already obsolete.

Senator Enrile noted that the EDSA Shrine was built in commemoration of the peaceful 1986 EDSA Revolution. He wondered why the administration has been claiming the sole authority over the EDSA Shrine when, in fact, the peaceful revolution was participated in by different groups, sects and religions.

Senator Ejercito Estrada recalled that a few months after the EDSA II rally, EDSA III, which lasted for five days, was staged near the EDSA Shrine. Weeks after that, he said, Manila Archbishop Jaime Cardinal Sin, through his secretary, Bishop Socrates Villegas, ordered the prohibition of any kind of assembly around the EDSA Shrine. Upon further query, he affirmed that there is no law that prohibits the same.

Asked if he would agree during the budget hearing to ask the PNP officials why they were following the administration's order to guard the EDSA Shrine which is unconstitutional as it involved the use of public funds, Senator Ejercito Estrada replied in the affirmative.

REFERRAL OF SPEECH TO COMMITTEES

Upon motion of Senator Pangilinan, there being no objection, the Chair referred the speech of Senator Ejercito Estrada (J) and the interpellations thereon to the Committee on Justice and Human Rights as the primary committee and the Committee on Public Order and Illegal Drugs as the secondary committee.

SECOND ADDITIONAL REFERENCE OF BUSINESS

Secretary Yabes read the following matters and the Chair made the corresponding referrals:

RESOLUTIONS

Proposed Senate Resolution No. 60, entitled

RESOLUTION DIRECTING THE
COMMITTEE ON ENERGY TO
INQUIRE, IN AID OF
LEGISLATION, INTO THE
STATUS OF THE ENERGY

SECTOR OF THE COUNTRY AND
THE REVIEW OF ALL
ASPECTS THEREOF, INCLUDING
CONTRACTS WITH INDEPENDENT
POWER PRODUCERS (IPPs)
WITH THE END IN VIEW OF
COMING UP WITH POLICY
MEASURES THAT WOULD
ADDRESS THE POSSIBLE
EMERGENCE OF AN ENERGY
CRISIS AND THE RISING OF
COST OF FUEL AND
ELECTRICITY, AND TO ASSESS
THE ENERGY REQUIREMENTS
OF THE COUNTRY

Introduced by Senator Enrile

To the Committee on Energy

Proposed Senate Resolution No. 61, entitled

RESOLUTION CALLING AN
INVESTIGATION IN AID OF
LEGISLATION OF THE MAJOR
DAMS AND OTHER CAUSES OF
THE HEAVY FLOODS IN LUZON
INDUCED BY THE TORRENTIAL
RAINS

Introduced by Senator Gordon

To the Committees on Public Works; and
Environment and Natural Resources

THIRD ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

Senate Bill No. 1635, entitled

AN ACT FIXING THE DATE OF
THE REGULAR ELECTION FOR
ELECTIVE OFFICIALS OF
THE AUTONOMOUS REGION IN
MUSLIM MINDANAO PURSUANT
TO REPUBLIC ACT NO. 9054,
ENTITLED "AN ACT TO
STRENGTHEN AND EXPAND
THE ORGANIC ACT FOR THE
AUTONOMOUS REGION IN
MUSLIM MINDANAO, AMENDING
FOR THE PURPOSE REPUBLIC

ACT NO. 6734, ENTITLED AN ACT PROVIDING FOR AN ORGANIC ACT FOR THE AUTONOMOUS REGION IN MUSLIM MINDANAO", AS AMENDED

Introduced by Senator Pangilinan

To the Committees on Constitutional Amendments, Revision of Codes and Laws; and Local Government

Senate Bill No. 1673, entitled

AN ACT FIXING THE DATE OF THE REGULAR ELECTIONS OF REGIONAL GOVERNOR, REGIONAL VICE-GOVERNOR, AND MEMBERS OF THE REGIONAL LEGISLATIVE ASSEMBLY OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9140 ENTITLED "AN ACT FIXING THE DATE OF THE PLEBISCITE FOR THE APPROVAL OF THE AMENDMENTS TO REPUBLIC ACT NO. 6734 AND SETTING THE DATE OF THE REGULAR ELECTIONS FOR ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO ON THE LAST MONDAY OF NOVEMBER 2001, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9054, ENTITLED AN ACT TO STRENGTHEN AND EXPAND THE ORGANIC ACT FOR THE AUTONOMOUS REGION IN MUSLIM MINDANAO, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 6734, ENTITLED AN ACT PROVIDING FOR THE AUTONOMOUS REGION IN MUSLIM MINDANAO, AS AMENDED, AND FOR OTHER PURPOSES," AND FOR OTHER PURPOSES

Introduced by Senator Pimentel Jr.

To the Committees on Constitutional Amendments, Revision of Codes and Laws; and Local Government

Relative to Senate Bill Nos. 1635 and 1673, Senator Pangilinan stated that the Body had taken an extraordinary approach of allowing their First Reading ahead of bills filed earlier because the ARMM elections are scheduled in the last week of September. He clarified that this would not serve as precedent.

RESOLUTION

Senate Concurrent Resolution No. 4, entitled

CONCURRENT RESOLUTION
AMENDING THE LEGISLATIVE
CALENDAR FOR THE FIRST
REGULAR SESSION OF THE
THIRTEENTH CONGRESS OF THE
PHILIPPINES

Introduced by Senator Pangilinan

To the Committee on Rules

ADJOURNMENT OF SESSION

Upon motion of Senator Pangilinan, there being no objection, the Chair declared the session adjourned until three o'clock in the afternoon of the following day, August 31.

It was 5:37 p.m.

I hereby certify to the correctness of the foregoing.

OSCAR G. YABES
Secretary of the Senate

Approve on August 31, 2004