



**REPUBLIC OF THE PHILIPPINES**

**S e n a t e**

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# **Journal**

**SESSION NO. 24**

Monday, September 24, 2007

**FOURTEENTH CONGRESS  
FIRST REGULAR SESSION**

**SESSION NO. 24**  
Monday, September 24, 2007

**CALL TO ORDER**

At 2:39 p.m., the Senate President, Hon. Manny Villar, called the session to order.

**PRAYER**

Sen. Edgardo J. Angara led the prayer, to wit:

Lord, this is a special day.

Remind us that everyday we spend at work is a chance to glorify You, and to make a difference in the lives of other people – and for those reasons, each day we come to work is a special day.

Bless the Senate with Your wisdom. In everything we say and do, and in the choices we make, be with us.

Grant us the energy, creativity, and the inspiration to carry on our everyday tasks. May the work that we do in this Chamber and the way we conduct it, bring hope, life, and courage to all who look to us for a better life.

Amen.

**MANIFESTATION  
OF SENATOR PANGILINAN**

At this juncture, Senator Pangilinan manifested that as agreed upon in caucus, whenever a senator wishes to avail of the privilege hour, the session would be convened at 2:30 p.m. but the roll would be called at three o'clock.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 2:40 p.m.*

**RESUMPTION OF SESSION**

At 2:42 p.m., the session was resumed.

**NATIONAL ANTHEM**

The Lyceum Choir led the singing of the national anthem and thereafter rendered the song entitled, *Isang Dugo, Isang Lahi, Isang Musika*.

**DEFERMENT OF THE CONSIDERATION  
AND APPROVAL OF THE JOURNAL**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the consideration and approval of the Journal of Session No. 23 to a later hour.

**DEFERMENT OF THE ROLL CALL**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the roll call to three o'clock p.m.

**DEFERMENT OF THE  
REFERENCE OF BUSINESS**

Upon motion of Senator Pangilinan, there being no objection, the Body deferred the Reference of Business to a later hour.

**SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended to allow the senators to greet Senator Angara on the occasion of his birthday.

*It was 2:48 p.m.*

**RESUMPTION OF SESSION**

At 2:49 p.m., the session was resumed.

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## PRIVILEGE SPEECH OF SENATOR ANGARA

Availing himself of the privilege hour, Senator Angara delivered the following speech:

### TREE OF LIFE: UNDER THREAT OF EXTINCTION

The coconut industry is a pillar of Philippine agriculture. It is the oldest and most strategic industry in the country, comprising 1.14% of our Gross Domestic Product, or as much as US\$760 million.

Our country leads the world in the coconut industry, dominating more than half of the global market. Coconut itself is the top agricultural export of the Philippines, reaping an annual revenue of US\$ 631.5 million from exports.

But equally important is that the industry is a source of livelihood for millions of Filipinos. The industry employs 23 million Filipinos, 3.4 million of whom are farmers. The tree is planted in 3.2 million hectares of land all over the country, in 68 out of the total 79 provinces. This comprises a third of our total agricultural land area, and a little over one-tenth of our total land area. It is considered a major crop in 1,195 of the 1,554 municipalities in the Philippines.

With its wide range of uses – over 100 different products including food and drink, fodder for livestock, fiber and building materials – and its vast contribution to Filipino livelihood, the coconut tree is indeed the Filipino's tree of life.

But the coconut industry now faces a threat of extinction within three years unless we step up efforts to stop a deadly menace.

#### *Tree of Life endangered*

In 2005, the coconut leaf beetle (CLB), scientifically known as *Brontispa longissima* (Gestro), entered the country through royal palms imported from Malaysia and Thailand. These ornamental plants brought coconut beetle and larvae that hid in its folded fronds. The widespread infestation of these pests in Vietnam, Samoa, Indonesia, Thailand, Lao-PDR, Cambodia, Maldives and China has wiped out vast plantations and caused tremendous losses in these countries' revenues.

According to the Philippine Coconut Authority (PCA), our coconut industry will be wiped out in three years unless we intensify efforts to control the onslaught of coconut leaf beetle.

The coconut beetle is a small, flat, and slender beetle. Its larva and adult are most destructive to the coconut tree. They mostly stay in unopened leaflets of young coconut spears, and feed on its soft tissues. Because of this, the affected parts of the coconut decay and dry, and the tree is unable to bear fruits.

In the Philippines, this beetle is already damaging coconut plantations in 22 provinces, covering 65 municipalities around the country. In these plantations, 20% to 100% of the coconut palms have been ravaged by the coconut leaf beetles, resulting in about 42% yield loss. One in every 3,363 coconut trees has been affected, or a total of 133,329 trees infested nationwide

#### *A threat to livelihood*

The speed and spread of infestation threatens both smallholders and large-scale coconut plantations.

A single CLB has a lifespan of 70 to 90 days, and a female CLB lays 50 to 100 eggs in its lifetime. Because of the insect's nature, and the massive transportation of palm trees all over the Philippines, the CLB infestations had spread rapidly.

It was first identified in Pasay City in 2005, and since then infestations have spread extensively.

Data from PCA as of October 2006 shows that there were no infestations in Regions I (Ilocos), II (Cagayan Valley), III (Central Luzon) and IV-B (island provinces of Southern Luzon) except in Manila and Bulacan, as well as in Regions IX, XII, XIII and XIV. That was only last year. Now, in less than a year, a number of provinces within these regions are CLB-infested.

These infestations have wreaked serious damage to the country's coconut industry. It is even worse than the *kadang kadang* which hit our coconut industry in the '50s and '60s.

If left unchecked, the CLB infestation is predicted to cost our economy P1.4 billion to P2 billion in estimated loss. We will continue to lose more revenue, and more Filipinos can end up without any source of livelihood, if we do not address these infestations speedily and effectively.

#### *Preserving the tree of life*

To date, the PCA has identified measures to control and eradicate the coconut leaf beetle infestations in the country.

PCA recommends the cultural control of the *CLB infestations through pruning and burning infested leaves, as well as biological control by introducing two kinds of fungi, the Green Muscardine Fungus (GMF) or the White Muscardine Fungus (WMF) in combination with the black earwig.*

Chemical control through trunk injection of pesticide is also done to fast-track the mitigation of pest infestation. This method will allow the recovery of severely damaged plants.

Concerned research institutions continue to formulate the integrated control measures that are both balanced and location-specific, and would keep the CLB populations to non-injurious or damaging levels.

*The gravity of the CLB infestation, however, entails a more swift and multi-sectoral solution to effectively combat its spread.*

Several local government units (LGUs) have already imposed ordinances regulating the trade of ornamental palms which introduced the CBL in the country. Metro Manila, Cavite, Batangas, Laguna, Quezon and Bulacan have already been placed under quarantine by the Bureau of Plant Industry.

An inter-agency *Brontispa* Action Team (BAT) was also created by virtue of DA Special Order 256, series of 2005, with a Steering Committee (SC) and a Technical Working Group (TWG) composed of decision and policy-makers, and experts from different agencies.

Spearheaded by the Philippine Coconut Authority, this task force develops and implements a National *Brontispa* Action Program to curb the CBL infestations.

However, these efforts from DA and the LGUs are still inadequate, considering the time element and the gravity of the problem threatening to wipe out the country's coconut industry.

In this light, I submit very strongly that we need to sound an urgent alarm to alert both the public and policy-makers to a grave peril. Nothing less than a state of emergency in all coconut-growing provinces in the Philippines is imperative to arrest this massive infestation.

A declaration of a state of emergency will not only enable the national government to institute immediate measures but will also allow the LGUs to use their calamity funds to combat the infestation in their own locality and mobilize local officials. Moreover, this can alert the Filipino public to what is, up to now, an overlooked threat.

It will authorize the PCA and the Bureau of Plant Industry, with the assistance of the PNP, to enforce quarantine measures.

National government must set aside emergency funds to implement urgent measures necessary to combat this infestation.

Further, massive information campaigns should be conducted to educate the public. Extensive training seminars should be provided to farmers to teach them practical control methods.

Given the importance of the industry to our economy and to the livelihood of millions of Filipinos, any threat to destabilize coconut production in the Philippines should be a matter of highest concern.

The coconut indeed is the Filipino's tree of life. We cannot afford any delay in order to preserve this precious tree.

## SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

*It was 3:05 p.m.*

## RESUMPTION OF SESSION

At 3:05 p.m., the session was resumed.

## SUSPENSION OF THE PRIVILEGE HOUR

Upon motion of Senator Pangilinan, there being no objections, the privilege hour was suspended and consequently, interpellations on the speech of Senator Angara were deferred to a later time.

## ROLL CALL

Upon direction of the Chair, the Secretary of the Senate, Emma Lirio-Reyes, called the roll, to which the following senators responded:

Angara, E. J.	Lacson, P. M.
Aquino III, B. S. C.	Lapid, M. L. M.
Arroyo, J. P.	Legarda, L.
Cayetano, C. P. S.	Pangilinan, F. N.
Defensor Santiago, M.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Revilla Jr., R. B.
Escudero, F. J. G.	Roxas, M.
Gordon, R. J.	Villar, M. <i>AF</i>

With 16 senators present, the Chair declared the presence of a quorum.

Senators Biazon, Cayetano (A), Enrile, Honasan, Madrigal and Zubiri arrived after the roll call.

Senator Trillanes was unable to attend the session.

### **INTERPELLATIONS ON THE PRIVILEGE SPEECH OF SENATOR ANGARA**

Upon motion of Senator Pangilinan, there being no objection, the Body proceeded to the interpellations on the speech of Senator Angara.

### **INTERPELLATION OF SENATOR LEGARDA**

Asked by Senator Legarda how the coconut leaf beetle has affected the coconut plantations in the Panay Islands, Senator Angara reported that Aklan was the most affected and Boracay just imposed a quarantine and prohibited the entry of ornamental and coconut seedlings after almost all of its coconut trees died because of infestation.

To the observation that the concerned agencies failed to anticipate the entry of the coconut leaf beetle through the importation of ornamental plants, Senator Angara explained that the theory is that the beetle entered the country through the importation of the royal palm, an ornamental plant from Malaysia, in 2005. He bared that the first sign of the infestation was seen at Roxas Boulevard and since then, it has spread to the southernmost part of Palawan, in the municipality of Bataraza, to the Central Visayas and Southern Tagalog, particularly Manila and Bulacan. He said that the agencies should have anticipated the infestation as it has devastated coconut plantations in Indonesia and Thailand, among others.

Senator Legarda asked why these agencies were caught unaware of the dangers of importing ornamental palms that might be infested. She noted that developed countries like the U.S. and the European Union have stringent quarantine procedures. Senator Angara noted that the country's quarantine system has actually been effective since it has prevented the entry of the avian flu and the spread of the foot-and-mouth disease but admittedly, it was a little bit lax on the entry of plants into the country. He pointed out that any living plant cannot be brought in at all in the U.S., Europe, Canada, Australia, Japan and Korea.

As to the estimated loss that the coconut industry incurred in the past two years for Southern Tagalog and the Panay Islands, Senator Angara replied that the estimate of the Philippine Coconut Authority is between P1.4 billion and P2 billion, but if the infestation remains unabated, it may reach P50 billion annually, almost 2% of the Gross Domestic Product.

Asked how the problem could be solved, Senator Angara underscored that the first thing the government should do is to declare a state of emergency in all coconut-growing provinces because by doing so, the local resources of each province could be tapped, their calamity fund could be released, and local officials could be mobilized. He stated that according to Agriculture Secretary Arthur Yap, the amount of P50 million has already been earmarked to enable the national and local governments to join hands and launch an intensive information campaign and apply preventive measures – cultural, biological and chemical.

To the suggestion that the entry of ornamental palm plants into the country be banned, Senator Angara clarified that the Bureau of Plant Industry has reported that there is a quarantine imposed on any and all kinds of palms, ornamental or coconut, as well as their inter-island movement.

As regards the specific chemicals to be injected into the tree trunks and their possible side effects, Senator Angara stated that according to scientists of the Department of Science and Technology, trees are being injected specific pesticides and once treated, they should be handled very carefully, meaning, their fruits cannot be harvested within the next six months because they may have some toxins. He pointed out that this preventive measure has to be done to preserve the tree, otherwise, it will just dry up and die.

Senator Angara agreed that the matter should be treated in a very scientific and researched manner, adding that nationwide seminars should be undertaken to educate coconut farmers. He cited the suggestion of Secretary Yap to set up livelihood funds for coconut farmers while they are unable to harvest their produce.

Saying that there could be solutions other than injecting pesticides, Senator Legarda asked whether the DA could ask the agricultural attachés of countries affected by the infestation how they dealt with the problem. Senator Angara clarified that the use of

chemicals is only one measure to control the infestation, as he cited the natural biological control such as pruning the infected leaves and burning them. With respect to the suggestion to call the agricultural attachés of the affected countries, he said that the judgment and timing of this action should be left to the agriculture secretary.

In closing, Senator Legarda said that the executive and legislative departments must do all they can to avert the looming environmental and economic catastrophe.

#### **INTERPELLATION OF SENATOR PIMENTEL**

Senator Pimentel suggested that the implementation of chemical intervention methods be very stringent considering the wide areas of coconut plantation in the country. He expressed concern that the proposed cure for the infestation might even be worse than the disease since it may unwittingly cause toxic side effects on people who might, for instance, be drinking coconut juice from a newly injected coconut trunk. Senator Angara replied that the DA has given the assurance that the application of chemical measures would be less than the application of biological and natural methods such as pruning and burning. However, he said that chemical injections might inevitably be used to arrest the spread of the disease and, as such, its application must be done very strictly and in a controlled atmosphere and in close coordination with local officials.

On whether the chemical control method to prevent the spread of the disease has been implemented in other countries, Senator Angara explained that the recommendation to use chemical pesticide was based on the experience of other countries such as Vietnam, Indonesia, Thailand, Cambodia, China and Samoa where vast plantations have been wiped out by the pestilence.

Asked which countries have used pesticide and the extent of its success, Senator Angara replied that Vietnam, Indonesia, Thailand, Cambodia and China have done so but that he was not certain as to the extent that they had been successful in wiping out the infestation. He expressed hope that the agriculture secretary would provide data on the matter.

To the suggestion that a committee hearing be held to thresh out issues on the effectivity of the use

of these chemicals to ensure that the application would be for the good rather than to the detriment of the people, Senator Angara expressed hope that the PCA, the Bureau of Plant Industry, and Secretary Yap would supply the answers to Senator Pimentel's questions when the Committee on Agriculture resumes its hearing on Wednesday.

Senator Pimentel expressed concern that certain parties might use the issue to propose solutions for personal gain such as, for instance, controlling the supply of a particular chemical or favoring a particular supplier or producer. He said that Congress should act on the issue at hand to ensure that government's meager resources are not wasted. Senator Angara assured the Body that the Committee on Agriculture and Food would not stand any sort of foolishness in such an important matter.

#### **INTERPELLATION OF SENATOR GORDON**

At the outset, Senator Gordon noted that the speech was aptly titled "Tree of Life" since coconut production has spawned several sub-industries such as coconut feed, oil, wine, vinegar, medical additives, and food, and as such, many people are heavily dependent on coconut trees for their livelihood. Senator Angara agreed as he pointed out that coconut farmers comprise one of the poorest subsectors of the industry.

To the suggestion that funds be allotted for programs to generate awareness about the coconut infestation that could also be disseminated to schools, Senator Angara welcomed the idea as he said that a communication program through print and broadcast media had also been discussed during one committee hearing.

Asked to identify the specific areas that have been affected by the coconut infestation so that government could impose strict quarantine measures and post bulletins to prevent the spread of the disease, Senator Angara said that the Committee would be requiring the DA, through the Philippine Coconut Authority (PCA) and the Bureau of Plant Industry, to specify the locations where infestation is present as they are aware only of the general direction of the infestation, particularly in Bataraza, Southern Palawan where 40% of coconut trees have already been infected. He pointed out that the speed and scope of the infestation can be seen in the fact that other heavily infested areas now include Aklan, Panay, Cavite, Batangas, Laguna, Quezon, Bataan

and Metro Manila. He added that despite the protection offered by the Sierra Madre mountains and the strict quarantine measures being followed in Aurora, one barangay in the area has already been infested. He warned that the PCA's prediction of the decimation of the coconut industry might become a reality unless government acted quickly to intensify its information campaign and seminars for farmers, along with the mobilization of local government officials.

Senator Gordon noted that aside from the problem of infestation, the aging coconut industry has also been affected by severe typhoons. He asked whether the proposed chemical intervention to address the problem would lead to the creation of a resistant hybrid of coconut plant. Senator Angara said that more scientific research is needed to determine whether the extent of toxicity of the pesticide application would bring forth a hybrid coconut species.

Senator Gordon stressed the need for immediate action to quell this threat on a major industry. Senator Angara stated that he has received information that the infestation has reached as far as Davao City and even Bukidnon in Northern Mindanao.

*In the course of Senator Gordon's interpellation, Senate President Villar relinquished the Chair to Senate President Pro Tempore Ejercito Estrada.*

#### **INTERPELLATION OF SENATOR ARROYO**

Asked by Senator Arroyo who would fund the emergency treatment since there is no appropriation for it in the budget, Senator Angara replied that the P50 million to be allocated as the national contribution to the program would be sourced from the Department of Agriculture budget.

Senator Arroyo asked the Committee's assurance that the fund would not come from the 14 holding companies, the 14 CIIF, involved in the San Miguel controversy.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 3:41 p.m.*

#### **RESUMPTION OF SESSION**

At 3:42 p.m., the session was resumed.

Senator Angara conveyed Secretary Yap's assurance that the P50 million would not come from the CIIF but from the high value and research budget of the DA.

Senator Arroyo disclosed that he also talked with Secretary Yap, but he wanted to make it of record that Congress would not allow the coconut levy fund, tainted as it is, to be used for a noble purpose and therefore be cleansed of its taint. Moreover, he believed that no amicable settlement on the coconut levy fund should be allowed, as there are rumors that Chairman Sabio was trying to have an amicable settlement on it even after government has won more than half of the case. Relative thereto, he invited the Body to the hearing on the PCGG budget to find out if Congress needs to extend any budget to it and to assess the extent of its usefulness.

#### **INTERPELLATION OF SENATOR ZUBIRI**

Senator Zubiri asked how much it would cost the country if the problem goes unabated. In reply, Senator Angara estimated that the coconut industry contributes 1.14% of the Gross Domestic Product; in terms of U.S. dollar value a year, the industry is producing more than \$700 million annually or P35 billion.

Senator Zubiri asserted that there is need to declare war on the pests, as in the case of the United States which declared war against the African killer bees and the moth that devastated the country's premier crops. He observed that government has made mistakes in the past when it allowed certain species to enter the country, noting that the golden *kuhol* is currently the number one pest in the rice-producing areas of Central and Northern Luzon, and the janitor fish are the major pests in the country's river systems. He pointed out that once there is a declaration of war on a certain pest, all agencies of government get together with the single purpose of eradicating the pest.

Likewise, Senator Zubiri adverted to an article in *The Philippine Daily Inquirer* entitled, "Coconuts to Fuel Growth in the Pacific" which basically features the use of coconut as a biofuel and food for the out-lying Pacific countries. He believed that the economy and the peace and order situation of the country would be adversely affected if these pests completely destroyed the coconut industry, as the remaining crop of the CALABARZON and other

areas devastated by typhoons last year is coconut. He proposed that the Body craft an appropriate measure directing all concerned agencies to act on the problem immediately.

### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 3:50 p.m.*

### **RESUMPTION OF SESSION**

At 3:51 p.m., the session was resumed.

### **SUSPENSION OF THE PRIVILEGE HOUR**

Upon motion of Senator Pangilinan, there being no objection, the privilege hour was suspended and consequently, the interpellations on the privilege speech of Senator Angara were also suspended.

### **PARLIAMENTARY INQUIRY OF SENATOR LACSON**

At this juncture, Senator Lacson informed the Body that he just received a call from the House Minority Leader, Ronaldo Zamora, saying that in an open hearing Secretary Romulo Neri categorically stated that he would not be attending the Senate hearing on Wednesday as he has been invited by the President to fly with her to New York. He asked if it is proper for the Senate to issue a subpoena to make Secretary Neri legally bound to attend the hearing.

Senator Pangilinan replied that as a matter of practice, notices are given to witnesses at least three days before the hearing. He requested that the Committee on Rules be given a few minutes — while Senator Defensor Santiago's speech is being delivered — to confer with the Chairman of the Blue Ribbon Committee and the staff on the matter.

### **QUESTION OF PRIVILEGE OF SENATOR DEFENSOR SANTIAGO**

Rising to a question of personal privilege, Senator Defensor Santiago said that she has abused the generosity and goodwill particularly of Senator Pimentel, whom she had always requested to allow her to speak first in the plenary, and Senator Madrigal, whom she had requested to allow her to interpellate

first in the last ZTE hearing. She said that sometime last week, she was found by a colleague lying on the sofa in the lounge watching the proceedings on TV. This, she said, is not owing to a lack of respect for her colleagues but to a medical condition called "chronic fatigue syndrome" which has no known cause and treatment. She revealed that the symptoms are extreme and prolonged fatigue even during the morning when she wakes up, with extreme dizziness and nausea. She said that she has gone through the entire gamut of blood tests and a bone marrow biopsy but there is no adverse finding like leukemia. She noted that the condition began when she got married and was aggravated by the loss of her son in 2003, which caused an emotional trauma and mental stress so that while her mind works, her body is physically exhausted. These, she said, are the reasons why she is always in a hurry to get away.

### **PRIVILEGE SPEECH OF SENATOR DEFENSOR SANTIAGO**

On a matter of collective privilege, Senator Defensor Santiago delivered the following speech:

#### **INTERNATIONAL AGREEMENTS IN CONSTITUTIONAL LAW: THE SUSPENDED RP-CHINA (ZTE) LOAN AGREEMENT**

#### **CONSTITUTIONAL PROVISIONS**

The Constitution, Article VII on the Executive Department, provides:

Sec. 20. The President may contract or guarantee foreign loans on behalf of the Republic of the Philippines with the prior concurrence of the Monetary Board, and subject to such limitations as may be provided by law. The Monetary Board shall, within thirty days from the end of every quarter of the calendar year, submit to the Congress a complete report of its decisions on applications for loans to be contracted or guaranteed by the Government or government-owned and controlled corporations which would have the effect of increasing the foreign debt, and containing other matters as may be provided by law.

Sec. 21. No treaty or international agreement shall be valid and effective unless concurred in by at least two-thirds of all the Members of the Senate.

*MS*  
*PD*



Thus, the Constitution recognizes at least two forms of international agreements, as follows:

1. **Foreign loans**, which require prior concurrence of the Monetary Board.

2. **Treaties or international agreements**, which require concurrence of at least two-thirds of all members of Senate, or 16 out of 24 senators.

The Constitution does not provide a definition of these two forms of international agreements. But since our Constitution "adopts the generally accepted principles of international law as part of the law of the land," the obvious reference is the 1969 Vienna Convention on the Law of Treaties, which defines a treaty as "an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation."

Under this definition by the 1969 Vienna Convention, the generic term "international agreement" includes both foreign loans and treaties, provided that each one is concluded between two states, or between a state and an international organization.

#### TREATY DISTINGUISHED FROM EXECUTIVE AGREEMENT

*Black's Law Dictionary* defines a loan as "delivery by one party to, and receipt by, another party of a sum of money upon agreement, express or implied, to repay it with or without interest." If the loan is transacted between two states, then it becomes an international agreement.

Under the Constitution, a foreign loan would take one of two natures:

1. If it is a foreign loan *per se*, meaning by itself, unconnected with other matters, then it requires prior concurrence of the Monetary Board. It could be designated as an executive agreement.

2. If it is a foreign loan connected with other matters, then it is in effect a treaty, which requires Senate concurrence.

The Constitution makes no mention of "executive agreement," particularly as an exemption to the general rule of Senate concurrence in any international agreement. *Black's Law Dictionary* defines an executive agreement as "a treaty-like agreement with another country in

which the President may bind the country without submission to the Senate," citing the 1937 case of *US v Belmont*. We inherited this executive agreement doctrine during the American colonial regime.

The 1935 Constitution, although it contained a provision for Senate concurrence in a treaty, did not include the phrase "or international agreement," which is now found in the equivalent provision of the 1987 Constitution. For this reason, the *Records of the 1986 Constitutional Commission* show that initially, Commissioner Sarmiento moved that the phrase "or international agreement" should be deleted, but later withdrew his amendment, after Commissioner Concepcion said that international agreements never bind the Philippines, unless the Philippines ratifies them.

Commissioner Aquino asked whether "executive agreements" would also need confirmation. Commissioner Concepcion replied that executive agreements are generally made to implement a treaty already enforced, or to determine the details for the implementation of the treaty. Ms. Aquino then proposed to amend the provision, so that it would read: "No treaty or international agreement, **except executive agreement**, shall be valid and effective." But she later withdrew this amendment for being unnecessary, after Commissioner Bernas quoted a passage from the landmark case of *Commissioner of Customs v Eastern Sea Trading*, which will be discussed in a minute.

Commissioner Bernas, interpreting *Eastern Sea*, made the point that a treaty has a permanent nature, while an executive agreement has a temporary nature. Ms. Aquino clarified that no Senate concurrence is needed for an executive agreement, such as a commercial agreement undertaken after prior authorization from Congress. Mr. Bernas agreed that if an executive agreement has been reached after prior Congress authorization, then there is no need for Senate concurrence.

Under the rules of constitutional construction, the intent of both the framers (meaning the Constitutional Commission) and adopters (meaning the people) is controlling. In case of conflict, the intent of the adopters will control. Since the people are represented by the Supreme Court, this means that the Supreme Court, in the exercise of the power of judicial review, is not bound by the opinions expressed during deliberation of the Constitutional Commission. Thus, in the 1974 case of *Aquino v Enrile*, the Supreme Court held that the intent of the

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commission is not controlling by itself, but merely sheds light on the intent of the framers.

The distinction drawn in the Constitutional Commission between a treaty as permanent in nature, and an executive agreement as temporary in nature no longer stands alone. The distinction now goes beyond this simplistic formula, as I will explain in a minute.

Under Memorandum Circular No. 89, dated 19 December 1988, "Providing for the procedure for the determination of international agreements as executive agreements," then Executive Secretary Catalino Macaraig, Jr., by authority of the President, said:

It is an accepted principle recognized in *Philippine jurisprudence* that international agreements which have the nature of an executive agreement do not require the concurrence of the Senate to be valid and effective.

.....

... [T]he matter should be brought to the attention of the Secretary of the Department of Foreign Affairs by a memorandum of the official responsible for the negotiation of said agreement. The said memorandum shall be referred to the Legal Adviser of the said Department and the Assistant Secretary in charge of the liaison between the Department of Foreign Affairs and the Senate, for their comment.

Whenever circumstances permit, consultations shall be made with the leadership and members of the Senate.

The Secretary of the Department of Foreign Affairs shall forthwith make the proper recommendation to the President.

It would be interesting if on Wednesday's hearing on the ZTE contract, the senators would ask someone from the Department of Foreign Affairs whether this procedure has been followed in the case of the ZTE contract which the administration characterizes as an executive agreement. But, as chair of the Committee on Foreign Relations, I manifest that I have not been consulted personally or together with the members of my committee despite the provision in this memorandum circular that "whenever circumstances permit, consultations shall be made with the leadership and members of the Senate."

Under Executive Order No. 459, "Providing for the Guidelines in the Negotiation of Inter-

national Agreements and Its Ratification" (sic) dated 25 November 1997, Section 9 provides: "The Department of Foreign Affairs shall determine whether an agreement is an executive agreement or a treaty."

#### *Distinction under American law*

The United States Constitution contains a provision substantially similar to ours, thus: "[The President] shall have Power, by and with the Advice and Consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." And yet, in the landmark case of *U.S. v Curtiss-Wright Corporation*, the U.S. Supreme Court carved out an exception in favor of executive agreements.

In the United States, the landmark case on executive agreements is the 1936 case of *Curtiss-Wright* where the U.S. Supreme Court ruled:

It is important to bear in mind that we are here dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations – a power which does not require as a basis for its exercise an act of Congress, but which, of course, like every other governmental power, must be exercised in subordination to the applicable provisions of the Constitution.

Since then, certain famous American cases have legitimated the idea of the President's foreign affairs power, independent of legislative power delegated by the Congress. The American cases also established executive agreements as one of the outer limits of that power. This independent role of the President in foreign affairs has fluctuated with the strength of the particular President and the exigencies of the moment. Thus, the U.S. President resolved the Iran hostage crisis with an executive agreement, because congressional support was either not necessary, or not feasible. But in such scandals as the Vietnam war, Watergate, the arms sales to Iran, and assistance to the contras in Nicaragua, Congress reasserted its authority.

Under contemporary American jurisprudence, an executive agreement is an international agreement entered into by the President, but does not require Senate approval, if it is based on any of the following grounds: ~~to~~

1. The constitutional authority vested in the President, namely, as chief executive, as commander-in-chief, as chief diplomatic officer, and as executor of the law of nations.

2. Legislation enacted by Congress, authorizing the President to conclude such arrangements.

3. Provisions of a treaty, for which the Senate provided its advise and consent, and in which executive agreements are authorized, such as mutual defense assistance agreements.

4. A combination of para. (2) and (3).

Under the U.S. State Department *Foreign Affairs Manual*, the following are the factors which should be considered when determining whether to proceed as a treaty or as an executive agreement:

- ◆ Extent to which it involves commitments or risks affecting the entire nation.
- ◆ Whether the agreement is intended to affect state laws.
- ◆ Whether the agreement can be implemented without the enactment of subsequent legislation.
- ◆ Past practices of the U.S. as to similar arrangements.
- ◆ Congress' preference as to the type of agreement.
- ◆ Degree of formality desired for the agreement.
- ◆ Proposed duration of the agreement, need for immediate conclusion of the agreement, and the desirability of concluding routine or short-term agreement.
- ◆ The general international practice as to similar agreements.
- ◆ Avoidance of invading or compromising the constitutional power of the Senate, the Congress, and the President.

The U.S. State Department *Foreign Affairs Manual* also provides that the State Department will consult with congressional leaders and committees, when considering whether to pursue a treaty or an executive agreement.

#### *Distinction under United Nations guide*

The United Nations *Treaty Reference Guide* makes the following distinctions between treaty and agreement:

**(b) Treaty** as a specific term .... Usually the term "treaty" is reserved for matters of more gravity that require more solemn agreements ... Typical examples of international instruments designated as "treaties" are Peace Treaties, Border Treaties, Delimitation Treaties, Extradition Treaties, and Treaties of Friendship, Commerce, and Cooperation. The use of the term "treaty" for international instruments has considerably declined in the last decades in favor of other terms.

....

**(b) Agreement** as a particular term: "agreements" are usually less formal, and deal with a narrower range of subject-matter than "treaties." **There is a general tendency to apply the term "agreement" to bilateral or restricted multilateral treaties.** It is employed especially for instruments of a technical or administrative character, which are signed by the representatives of government departments, **but are not subject to ratification.** Typical agreements deal with matters of economic, cultural, scientific, and technical cooperation. Agreements also frequently deal with financial matters, such as avoidance of double taxation, investment, **or financial assistance** .... Nowadays by far the majority of international agreements are designated as agreements.

#### PHILIPPINE CASE LAW

Possibly the first landmark case on executive agreements was the 1959 case of *USAFFE Veterans Association, Inc. v Treasurer of the Philippines*, where the Supreme Court ruled that the following arguments seem persuasive:

[E]xecutive agreements may be entered into with other states and are effective, even without the concurrence of the Senate .... From the point of view of international law, there is no difference between treaties and executive agreements in their binding effect upon states concerned, as long as the negotiating functionaries have remained within their powers .... "The distinction between so-called executive agreements and 'treaties' is purely a constitutional one and has no international legal significance."

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In the leading case of *B Altman & Co. v U.S.*, it was held that "an international compact negotiated between the representatives of two sovereign nations and made in the name or behalf of the contracting parties and dealing with important commercial relations between the two countries, is a treaty both internationally, although as an executive agreement it is not technically a treaty requiring the advise and consent of the Senate ....

Executive agreements fall into two classes: (1) agreements made purely as executive acts affecting external relations, and independent of, or without, legislative authorization, which may be termed as presidential agreement; and (2) agreement entered into in pursuance of acts of Congress, which have been designated as Congressional-Executive Agreements.

The next landmark case, which has since become authoritative, was the 1961 case of *Commissioner of Customs v Eastern Sea Trading*, which quoted with approval from the decision of the Court of Appeals:

Treaties are formal documents which require ratification with the approval of two-thirds of the Senate. Executive agreements become binding through executive action without the need of a vote by the Senate or by Congress.

....

[T]he right of the Executive to enter into binding agreements **without** the necessity of subsequent Congressional approval has been **confirmed by long usage**. From the earliest days of our history, we have entered into executive agreements covering such subjects as commercial and consular relations, most-favored-nation rights, patent rights, trademark and copyrights protection, postal and navigation arrangements, and the settlement of claims. **The validity of these have never been seriously questioned by our courts.**

....

International agreements **involving political issues or changes of national policy and those involving international arrangements of a permanent character** usually take the form of treaties. But international agreements embodying **adjustments of detail** carrying out well-established national policies and tradi-

tions, and those involving arrangements of a more or less **temporary nature** usually take the form of executive agreements.

....

In this connection, Francis Sayre, former U.S. High Commissioner to the Philippines, said in his work on "The Constitutionality of Trade Agreement Acts:"

"It would seem to be sufficient, in order to show that the trade agreements under the Act of 1934 are not anomalous in character, that they are not treaties, and that they have abundant precedent in our history, to refer to certain classes of agreements heretofore entered into by the Executive without the approval of the Senate. They cover such subjects as ... **commercial relations generally**, etc.

This landmark case of *Eastern Sea Trading* concerned the May 1950 RP-US Trade and Financial Agreements, which were implemented by Executive Order No. 328, dated 22 June 1950. It has since been the leading authority on the constitutionality of executive agreements. *Eastern Sea Trading* has been cited in a line of cases, including the following:

- ♦ The 2000 case of *Bayan v Zamora*, concerning the RP-U.S. Visiting Forces Agreement.
- ♦ The February 2007 case of *Abaya v Ebdane, Jr.* concerning the RP-Japan Exchange of Notes dated 27 December 1999, and Loan Agreement No. PH-P204 dated 28 December 1999.
- ♦ The June 2007 case of *Department of Budget and Management Procurement Service v Kolonwel Trading*, concerning the 2000 RP-IBRD Loan Agreement No. 7118-PH, and the RP-ADB Loan No. 1654-PHI. This *Kolonwel* decision cited the *Abaya* ruling.

#### RP – CHINA (ZTE) LOAN AGREEMENT

It is respectfully submitted that the present RP – China (ZTE) loan agreement is an executive agreement on the following grounds:

1. It is a soft loan, and the risks to the nation are not significant.
2. It is not intended to affect Philippine laws.

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3. It can be implemented without the enactment of subsequent legislation, save for the necessary provision in the national appropriations act.

4. Past foreign loan agreements have been upheld as valid executive agreements, notably in the 2007 *Abaya* and *Kolonwel* cases.

5. It is a short-term agreement.

6. The validity of executive agreements is considered a norm of international law, and more specifically as a principle of international customary law. In international law as in Philippine Constitutional Law, custom is the best interpreter of the laws. *Optimum legum interpres consuetudo*.

7. To require Senate concurrence would compromise the constitutional power of the President as chief diplomatic officer.

Since a loan agreement would create future indebtedness which would require payment by the National Treasury, it should follow the following process for perfection of an agreement:

1. The Department of Budget and Management (DBM) should issue a Forward Obligation Authority (FOA).

2. The Office of the President should issue full powers to the Department of Finance (DOF).

3. The DOF, on behalf of the Republic of the Philippines, should enter into the loan agreement.

4. The Monetary Board has to approve the loan.

5. Congress, in the exercise of the power of the purse, should approve the loan through the annual appropriations act.

At present, this RP-China loan agreement, in the form of an executive agreement, is a work in progress. The Supreme Court has issued a temporary restraining order on the present negotiations. Accordingly, the President has issued instructions to suspend the executive proceedings, during the pendency of the Supreme Court petition. This paper merely discusses its constitutionality. As such, it will become a valid executive agreement without Senate participation, provided that it follows the five-step procedure I have already indicated. The question of alleged irregularities in its negotiation is a separate issue.

## SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

*It was 4:21 p.m.*

## RESUMPTION OF SESSION

At 4:22 p.m., the session was resumed.

## REFERRAL OF SPEECH TO COMMITTEES

Upon motion of Senator Defensor Santiago, there being no objection, the Chair referred her privilege speech to the Committee on Accountability of Public Officers and Investigations, and to the Committees on National Defense and Security, and Trade and Commerce.

## PARLIAMENTARY INQUIRY OF SENATOR ARROYO

Senator Arroyo noted that the House of Representatives passed a bill postponing the barangay elections, while the Senate decided in caucus not to postpone it. However, he expressed concern on the propriety of deciding the fate of the bill simply in a caucus without the Senate acting on it formally in plenary as it involves 42,000 barangays, the backbone of government. He stressed the need for the Senate to accord the House respect or deference by formally disapproving the measure. He then proposed to let the bill go through the Committee and if it is defeated at the committee level, it would be the end of it unless, as the Rules provide, five senators file a petition for it to be elevated in plenary discussion. He stated that the Senate cannot tell the House that the measure was defeated in caucus because that is not even part of the parliamentary system; it is just an informal practice.

In reaction, Senator Pangilinan said that although there was indeed a discussion on the possibility of archiving the measure that has been forwarded by the House to the Senate, this has not yet been officially acted upon as it is still pending with the Committee on Constitutional Amendments, Revision of Codes and Laws.

Senator Gordon recalled that after the caucus last week, he made a manifestation that he was trying to find out the sense of the Senate on whether

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the Committee should take the measure up, considering that announcements have been made by Senate President Villar that it is "dead in the water" because the Body in caucus decided not to postpone the elections.

Senator Gordon said that while he agrees with that position, he is also concerned that it would allow the Commission on Elections to get away with their inaction on the automated election law which has been pending since 1997. If computerization could not be done in the barangay elections, he expressed hope that it could be done in the ARMM elections next year, as he warned that Comelec could circumvent the law again like it did during the last ARMM elections.

Senator Gordon said that he would like to have an automated barangay elections and Comelec should be challenged to tell Congress that it is again unable to implement the automated election law because its chairman is busy trying to pursue another kind of technology — the broadband technology — instead of automated elections. For this reason, and in deference to the request of Senator Arroyo, he said that as chair of the Committee on Constitutional Amendments, Revision of Codes and Laws, he would call a hearing on Thursday to which the Comelec and representatives of barangays would be invited to decide on the matter.

Senator Arroyo welcomed the intent of Senator Gordon to call a hearing as he underscored the need for the Senate to act one way or another. He said that he was simply worried if the Senate just ignore the House by not acting on the bill.

Senator Gordon expressed hope that he could convince the senators to see the wisdom of postponing the elections for a few months so that automated elections could be conducted. Nevertheless, he said that he was ready to accept the decision of the Body.

Senator Arroyo said that the Committee could prepare a report on the bill and if it is voted down by the majority vote by the members, it would be automatically archived.

#### REMARKS OF SENATOR PIMENTEL

Senator Pimentel stated that the postponement of the barangay and SK elections is not warranted by any circumstance for the following reasons:

- 1) the DBM certified that there is money for it;
- 2) Comelec has stated that it is ready for it;
- 3) the last time the barangay elections were postponed, the House panel committed that it would be the last postponement. He recalled that he, in fact, kidded the House panel on the probability that they would find reasons to seek another postponement this year. He said that while he is in favor of automated elections, he believed there is no need to computerize the barangay elections because the votes are counted and finished at the precinct level and the results are not necessarily transmitted from one precinct to another, unlike the congressional or senatorial elections where the precinct count is transported to the municipality or city level and up to the provincial level, presenting many instances where a fraudulent manipulation of the election count could be done manually. He suggested that the Comelec start electronic counting in the forthcoming ARMM elections instead of the barangay elections.

At this point, Senator Pimentel warned that should there be any move to approve the House bill seeking to postpone the elections, he would fight it all the way and with all the means at his command.

Senator Gordon said that he was fully aware of the tenacious way Senator Pimentel wages a campaign. However, he noted how the Comelec has gotten away with too many things, including buying machines in 1997 for an ID card system at the cost of P1 billion; buying another set of machines worth P1.3 billion which the Supreme Court ordered returned but which Chairman Abalos still insists on using. He admitted that he was, in fact, against any extension, but he was only waiting for the Comelec to say that it cannot automate and for Chairman Abalos to "fry in his own lard." He believed that the other Comelec members would be able to push automation by trying it out in two provinces or two cities as the law provides and have full automation in 2010.

Senator Gordon stressed that it is time to give the people a fair chance to vote honestly and accurately, and not allow Chairman Abalos to get away with his schemes.

#### PARLIAMENTARY INQUIRY OF SENATOR AQUINO

Asked by Senator Aquino whether a counterpart measure has been filed by the Senate, Senator Pangilinan replied in the negative. He said that the

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practice is for a measure to be first referred to the committee that has jurisdiction over it and for that committee to decide on its merits.

In the absence of a counterpart measure, Senator Aquino asked whether it is proper for the Body to deliberate on a House measure. Senator Pangilinan replied that it is incumbent upon the Senate to act on a measure that has been forwarded to it by the House and it is up to the concerned committee to make the appropriate recommendation.

For his part, Senator Gordon stated that the Committee could propose amendments to the House bill or recommend that it be archived. On another matter, he urged to Body to check on the report of the Association of Barangay Captains that the Comelec was asking each barangay to contribute P25,000 supposedly for the elections. He wondered why the Comelec was asking for money when there is an appropriation of P2.6 billion for the purpose. He hoped that in the hearing on the Comelec budget, the Chairman could be made to explain this and other matters.

At this point, Senator Pangilinan informed the Body that he has been on the phone with Congressman Arturo Defensor who asked what official acts the Senate would be undertaking on the matter and his answer was that the Committee would be conducting a hearing on it on Thursday.

#### **INQUIRIES OF SENATOR BIAZON**

Asked by Senator Biazon under what authority the Comelec is asking each barangay to contribute P25,000, Senator Gordon replied that his staff was still checking the report as he added that Section 10 of the Omnibus Election Code authorizes Comelec to ask for contributions in advance.

As to the purpose of the contributions, Senator Gordon surmised that the P1 billion would be spent for election purposes. Further, he clarified that any contribution has to be remitted to the National Treasury so that it could be appropriated by Congress.

On the contention that there should be an accounting of the contributions, Senator Gordon lamented that Comelec has failed to account for any of its expenditures, including those for the ID cards and the automation machines.

Senator Gordon disclosed that he has asked the president of the *Liga ng mga Barangay* to furnish him with a copy of a document asking for a formal explanation of the matter.

#### **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. 23 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. 1621, entitled

**AN ACT AMENDING SECTIONS 1 AND 4 OF REPUBLIC ACT NO. 7323 AND FOR OTHER PURPOSES**

Introduced by Senator Manuel "Lito" M. Lapid

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

Senate Bill No. 1622, entitled

**AN ACT PROVIDING FOR THE COMPULSORY REGISTRATION OF HEAVY EQUIPMENT AND FOR OTHER PURPOSES**

Introduced by Senator Manuel "Lito" M. Lapid

**To the Committees on Public Works; and Public Services**

Senate Bill No. 1623, entitled

**AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 198, OTHERWISE KNOWN AS THE PROVINCIAL WATER UTILITIES ACT, AS AMENDED, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES**

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Introduced by Senator Juan Miguel F. Zubiri

Senate Bill No. 1627, entitled

**To the Committees on Public Works; Public Services; and Finance**

AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, THROUGH THE NATIONAL MAPPING AND RESOURCE INFORMATION AUTHORITY, TO IDENTIFY THE LOW-LYING AREAS OF THE PHILIPPINE TERRITORY VULNERABLE TO RISING SEA LEVELS AS RESULT OF GLOBAL WARMING

Senate Bill No. 1624, entitled

AN ACT PROVIDING THAT ALL EDUCATIONAL INSTITUTIONS, WHETHER PUBLIC OR PRIVATE, SHALL HOLD MANDATORY CONSULTATION WITH STUDENTS, PARENTS OR GUARDIANS, ALUMNI, TEACHERS, AND OTHER NON-TEACHING PERSONNEL ASSOCIATIONS, BEFORE INCREASING AND/OR ADDING MISCELLANEOUS FEES, OTHER FEES, AND PAID SERVICES

Introduced by Senator Miriam Defensor Santiago

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

Introduced by Senator Miriam Defensor Santiago

Senate Bill No. 1628, entitled

**To the Committee on Education, Arts and Culture**

AN ACT IMPOSING CIVIL PENALTIES ON UNREASONABLE PRICE INCREASES FOR CRUDE OIL, RESIDUAL FUEL OIL, OR REFINED PETROLEUM PRODUCTS

Senate Bill No. 1625, entitled

AN ACT TO ESTABLISH A GRANT PROGRAM TO PROVIDE COMPREHENSIVE EYE EXAMINATIONS TO CHILDREN

Introduced by Senator Miriam Defensor Santiago

**To the Committees on Energy; and Trade and Commerce**

Introduced by Senator Miriam Defensor Santiago

Senate Bill No. 1629, entitled

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

AN ACT AMENDING REPUBLIC ACT NO. 6713, ALSO KNOWN AS AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

Senate Bill No. 1626, entitled

AN ACT TO CRIMINALIZE INTERNET SCAMS INVOLVING FRAUDULENTLY OBTAINING PERSONAL INFORMATION

Introduced by Senator Miriam Defensor Santiago

**To the Committees on Science and Technology; and Justice and Human Rights**

Introduced by Senator Miriam Defensor Santiago



**To the Committees on Civil Service and Government Reorganization; and Constitutional Amendments, Revision of Codes and Laws**

Senate Bill No. 1630, entitled

AN ACT MERGING THE DOMESTIC AND INTER-COUNTRY ADOPTION LAWS OF THE PHILIPPINES

Introduced by Senator Miriam Defensor Santiago

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

Senate Bill No. 1631, entitled

AN ACT PROVIDING FOR THE MAGNA CARTA OF HOUSEHOLD HELPERS

Introduced by Senator Miriam Defensor Santiago

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

**RESOLUTIONS**

Proposed Senate Resolution No. 140, entitled

RESOLUTION URGING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT A COMPREHENSIVE REPORT, IN AID OF LEGISLATION, ANENT THE REPORTED DEGRADATION OF THE BANAUE RICE TERRACES, A WORLD HERITAGE SITE, DUE TO PESTILENCE AND RAMPANT COMMERCIALIZATION

Introduced by Senator Manny Villar

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

Proposed Senate Resolution No. 141, entitled

RESOLUTION DIRECTING THE COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES, THE COM-

MITTEE ON HEALTH AND DEMOGRAPHY AND THE COMMITTEE ON ENERGY TO INVESTIGATE, IN AID OF LEGISLATION, THE NEGATIVE EFFECTS TO THE ENVIRONMENT AND THE HEALTH OF THE RESIDENTS OF THE AREAS ALONG OR WITHIN THE VISAYAS SEA, CENTRAL PHILIPPINES, BICOL AND SOUTHERN TAGALOG REGIONS OF THE OIL AND GAS EXPLORATIONS BY FOREIGN CORPORATIONS WITH THE END VIEW OF ENACTING REMEDIAL LEGISLATION

Introduced by Senator M. A. Madrigal

**To the Committees on Environment and Natural Resources; and Energy**

**ADDITIONAL REFERENCE OF BUSINESS**

**BILL ON FIRST READING**

Senate Bill No. 1632, entitled

AN ACT CREATING THE CIVIL AVIATION AUTHORITY OF THE PHILIPPINES, AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Pangilinan

**To the Committees on Public Services; Ways and Means; and Finance**

**RESOLUTIONS**

Proposed Senate Resolution No. 142, entitled

RESOLUTION CALLING FOR TRANSPARENCY IN TRANSACTIONS INVOLVING PUBLIC FUNDS AND COMPLIANCE WITH DISBURSEMENT, ACCOUNTING AND AUDITING RULES PRESCRIBED BY THE GOVERNMENT

Introduced by Senator Pangilinan

**To the Committee on Rules** *16*

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Proposed Senate Resolution No. 143, entitled

RESOLUTION COMMENDING DR. RAMONA BUSTAMANTE-RAÑES FOR WINNING THE WORLD SPEECH COMPETITION HELD IN INDIANAPOLIS, INDIANA IN THE UNITED STATES OF AMERICA, A TRUE REAFFIRMATION OF FILIPINOS' WORLD CLASS SPEECH PROWESS AND ELOQUENCE

Introduced by Senator Manny Villar

**To the Committee on Rules**

Proposed Senate Resolution No. 144, entitled

RESOLUTION URGING PRESIDENT GLORIA MACAPAGAL ARROYO TO DIRECT THE CANCELLATION OF THE ZTE CONTRACT

Introduced by Senator Mar Roxas

**To the Committees on Accountability of Public Officers and Investigations; Trade and Commerce; and National Defense and Security**

**ACKNOWLEDGEMENT OF THE PRESENCE OF GUESTS**

At this point, Senator Pangilinan acknowledged the presence of student leaders of the Marian Youth Council of St. Mary's Academy of Caloocan City who were accompanied by their principal, Mrs. Ellen Militante, and student activity coordinator, Mr. Antonio Ortiz.

**SPECIAL ORDER**

Upon motion of Senator Pangilinan, there being no objection, the Body approved the transfer of Committee Report No. 1 on Senate Bill No. 1620 from the Calendar of Ordinary Business to the Calendar for Special Orders.

**COMMITTEE REPORT NO. 1 ON SENATE BILL NO. 1620**

Upon motion of Senator Pangilinan, there being no objection, the Body considered, on Second Reading, Senate Bill No. 1620 (Committee Report No. 1), entitled

AN ACT GRANTING ADDITIONAL RETIREMENT BENEFITS TO MEMBERS OF THE JUDICIARY AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 910, AS AMENDED, AND FOR OTHER PURPOSES.

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

The Chair recognized Senator Escudero for the sponsorship speech.


**REMARK OF SENATOR ARROYO**

Senator Arroyo welcomed the maiden sponsorship speech of Senator Escudero.

**SPONSORSHIP SPEECH OF SENATOR ESCUDERO**

In sponsoring Senate Bill No. 1620, Senator Escudero stated that Senate Bill No. 1620 was introduced in substitution of Senate Bill Nos. 121, 1400, 1415 and 1597 which seek to amend certain sections of Republic Act No. 910 (providing for retirement benefits to the members of the Judiciary, particularly judges and justices, among others). He informed the Body that the amendatory substitute bill seeks to include all judges from the Supreme Court down to the Municipal Trial Court including the Sha'ria courts; provide survivorship; lower the length of service to avail of retirement benefits from 20 to 15 years; include certain allowances being received by members of the Judiciary, the computation of their retirement, and the nonmonetary benefit of a scholarship to one legitimate child of a retiring member of the Judiciary; and increase the benefits for those who happen to be killed while in the service performing his/her function as a member of the Judiciary.

Senator Escudero requested that the explanatory notes as contained in the aforementioned bills be inserted into the Record and be considered as the sponsorship speeches of the respective authors.

In closing, Senator Escudero said that the bill was approved on Third Reading by the previous Congress and it was included in the list of priority 



measures as agreed upon in caucus so that it can be approved with utmost dispatch.

#### COAUTHORS

Upon their requests, Senators Zubiri and Gordon were made coauthors of the bill.

#### TERMINATION OF THE PERIOD OF INTERPELLATIONS

There being no interpellation, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of interpellations and proceeded to the period of amendments.

#### REMARKS OF SENATOR PIMENTEL

Senator Pimentel supported the appeal of Senator Escudero to approve the measure with dispatch as he pointed out that since all questions had been exhausted during the deliberations on the bill in the previous Congress, there was no need to repeat them.

Senator Pangilian stated that the bill is one of the priority bills identified in the all-senators' caucus.

#### TERMINATION OF THE PERIOD OF AMENDMENTS

There being no committee or individual amendment, upon motion of Senator Pangilinan, there being no objection, the Body closed the period of amendments.

#### APPROVAL OF SENATE BILL NO. 1620 ON SECOND READING

Submitted to a vote, there being no objection, Senate Bill No. 1620 was approved on Second Reading.

#### SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1620

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

#### SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:00 p.m.*

#### RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed.

#### PROPOSED SENATE RESOLUTION NO. 143

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 143, entitled

RESOLUTION COMMENDING DR. RAMONA BUSTAMANTE-RAÑESES FOR WINNING THE WORLD SPEECH COMPETITION HELD IN INDIANAPOLIS, INDIANA IN THE UNITED STATES OF AMERICA, A TRUE REAFFIRMATION OF FILIPINOS' WORLD-CLASS SPEECH PROWESS AND ELOQUENCE.

The Deputy Secretary for Legislation read the text of the resolution, to wit:

WHEREAS, on 13 September 2007, Dr. Ramona Bustamante-Rañeses bagged the championship in a world speech competition held in Indianapolis, Indiana;

WHEREAS, the speech competition was one of the highlights of the 37<sup>th</sup> World Convention of the Women's Christian Temperance Union (WCTU), the oldest nonsectarian women's organization in the world which takes a strong stance against the influence of alcohol on families and society;

WHEREAS, Dr. Rañeses beat other participants from twenty-six (26) countries including Australia and United States which bagged the second and third places, respectively;

WHEREAS, Dr. Rañeses is a 58-year-old speech and theater arts teacher at the Bicol University for thirty-seven (37) years and a holder of doctorate degree in English from the University of Santo Tomas;

WHEREAS, she is a native of Oas, Albay and a mother of nine (9) children;

WHEREAS, in her speech, she said: "We have to be agents of change to bring out a beautiful world for mankind and we can do this by bringing forth to the world children who are healthy, vibrant, active, intelligent and beautiful. This can be done by avoiding involvement with smoking, alcoholism and drugs.";

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WHEREAS, she concluded her speech with a resolution: "I resolve to give more time to my children... to pay attention to the needs of my children... to be always around whenever my children need my help.";

WHEREAS, Dr. Rañeses has done the nation proud and have shown the world the Filipinos' capacity to excel in the international arena; Now, therefore, be it

RESOLVED, AS IT IS HEREBY RESOLVED BY THE SENATE OF THE PHILIPPINES, to commend Dr. Ramona Bustamante-Rañeses for winning in the world speech competition held in Indianapolis, Indiana and for contributing to the pride and honor of the global Filipino.

#### **ADOPTION OF PROPOSED SENATE RESOLUTION NO. 143**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 143 was adopted by the Body.

#### **ADDITIONAL REFERRAL**

Upon motion of Senator Pangilinan, there being no objection, the Chair also referred Senate Bill Nos. 37 and 422 (Socialized Housing and Loan Restructuring Program) authored by Senators Biazon and Ejercito Estrada, respectively, to the Committee on Local Government as the secondary committee.

#### **SUSPENSION OF SESSION**

Upon motion of Senator Pangilinan, the session was suspended.

*It was 5:02 p.m.*

#### **RESUMPTION OF SESSION**

At 5:04 p.m., the session was resumed.

#### **MANIFESTATION OF SENATOR PANGILINAN**


At this juncture, Senator Pangilinan manifested that Senator Lacson's inquiry on the issuance of a subpoena to Secretary Neri was already being addressed by Senator Cayetano (A), chair of the Committee on Accountability of Public Officers and Investigations.

#### **ADJOURNMENT OF SESSION**

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

*It was 5:05 p.m.*

I hereby certify to the correctness of the foregoing.

  
EMMA LIRIO-KEYES  
Secretary of the Senate  
*Ms Ms Ms Ms*

Approved on September 25, 2007