

REPUBLIC OF THE PHILIPPINES

S e n a t e

Pasay City

Journal

SESSION NO. 3

Wednesday, July 25, 2007

**FOURTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 3
Wednesday, July 25, 2007

CALL TO ORDER

At 3:42 p.m., the Senate President, Hon. Manny Villar, called the session to order.

PRAYER

Sen. Joker P. Arroyo led the prayer, to wit:

Heavenly Father, as we bow our heads in prayer and as we take a good and honest look at ourselves, remind us not to forget that the Roman Senate had great members, like Julius Caesar. It also had its share of controversial senators, like Brutus and Cassius.

They were pagans who worshipped false gods to whom they prayed for guidance, thus betraying their mortal weakness; that they had faith only in themselves. In the end, their *hubris* was their undoing.

Spare us from the folly, O Lord.

The Senate of the Philippines is composed of Christians and staffed mostly by Christians whose faith is anchored on our love of God.

Give us the courage and the confidence to face these troubled times in our troubled country.

With charity and humility in our hearts and with unity in mind and purpose, harness our collective minds to serve the commonweal and thereby do well by the people and above all, please God.

Amen.

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.	Honasan, G. B.
Aquino III, B. S. C.	Lacson, P. M.
Arroyo, J. P.	Lapid, M. L. M.
Biazon, R. G.	Legarda, L.
Cayetano, A. P. S.	Madrigal, M.A.
Cayetano, C. P. S.	Pangilinan, F. N.
Defensor Santiago, M.	Pimentel Jr., A. Q.
Ejercito Estrada, J.	Revilla Jr., R. B.
Enrile, J. P.	Roxas, M.
Escudero, F. J. G.	Villar Jr., M. B.
Gordon, R. J.	

With 21 senators present, the Chair declared the presence of a quorum.

Senator Zubiri arrived after the roll call.

Senator Trillanes was unable to attend the session.

**ACKNOWLEDGMENT OF
THE PRESENCE OF GUESTS**

At this juncture, Senator Pangilinan acknowledged the presence of Mayor Aldong Parojinog of Ozamis City, Misamis Occidental and his staff; and Mayor Dennis Sabando of Roxas City, Palawan.

**PARLIAMENTARY INQUIRY
OF SENATOR LACSON**

Asked by Senator Lacson to which position Senator Pangilinan was nominated and elected, the Chair replied that it was Chairman of the Committee on Rules.

Senator Lacson sought the correction of pages 12 and 13 of the Journal of Session No. 1, (July 23, 2007), to reflect that Senator Pangilinan was elected chairman of the Committee on Rules, to which the position of Majority Leader is attached. *W*

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Upon further query of Senator Lacson, Senator Pangilinan clarified that as has been the practice, the oath is administered to the Majority Leader.

At this point, Senator Lacson drew the Body's attention to Section 1, Rule 1 which says:

The Senate shall elect, in the manner hereinafter provided, a President, a President Pro Tempore, a Secretary and a Sergeant-at-Arms.

These officers shall take their oath of office before entering into the discharge of their duties.

Senator Lacson argued that the Rules of the Senate did not state that the chairman of any committee shall take his oath.

Senator Pangilinan pointed out that while Section 1, Rule 1 provides for the election of the Senate officers, the position of Majority Leader is not one of those positions identified, although the position is recognized in the other rules, specifically Section 6, Rule IV which provides, "In case of the temporary absence of the President or the President Pro Tempore, the Majority Leader or in his absence, the Assistant Majority Leader, or any member designated by the President shall discharge the powers and duties of the President."

SUSPENSION OF SESSION

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

It was 3:49 p.m.

RESUMPTION OF SESSION

At 3:49 p.m., the session was resumed.

APPROVAL OF THE JOURNAL AS CORRECTED

Upon motion of Senator Pangilinan, there being no objection, the Body dispensed with the reading of the Journal of Session No. 1 and considered it approved, subject to the following corrections of Senator Lacson:

1. On page 12, right column, in the caption ELECTION OF THE CHAIRMAN OF THE COMMITTEE ON RULES AND MAJORITY LEADER, delete the phrase "AND MAJORITY LEADER"; and on lines 2 and 3, and 5 and 6 of the text, after the words

"Committee on Rules," delete the phrase "and Majority Leader";

2. On page 13, left column, in the text of the first and second captions, change the words "Majority Leader" to CHAIRMAN OF THE COMMITTEE ON RULES; and
3. On the same page and column, delete the caption OATH TAKING OF SENATOR PANGILINAN and its text.

SUSPENSION OF SESSION

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

It was 3:49 p.m.

RESUMPTION OF SESSION

At 3:49 p.m., the session was resumed.

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. 51, entitled

AN ACT AMENDING PRESIDENTIAL DECREE NO. 1869, OTHERWISE KNOWN AS THE PAGCOR CHARTER, TO ENHANCE THE MANDATE OF THE PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR), AND FOR OTHER PURPOSES

Introduced by Senator Manuel "Lito" M. Lapid

To the Committee on Rules

Senate Bill No. 52, entitled

AN ACT PROVIDING FOR A DEVISE TO DECREASE THE COST OF ELECTRIC POWER CONSUMPTION OF END CONSUMERS, BY WAY OF LIMITING THE PASS ON CHARGES OF DISTRIBUTION UTILITIES TO CONSUMERS AS WELL AS COMPLETELY BANNING CROSS-

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OWNERSHIP FROM AND AMONG POWER UTILITY COMPANIES, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 9136 OTHERWISE KNOWN AS THE "ELECTRIC POWER INDUSTRY REFORM ACT OF 2001," AND FOR OTHER PURPOSES

Introduced by Senator Manuel "Lito" M. Lapid

To the Committees on Energy; and Public Services

Senate Bill No. 53, entitled

AN ACT AMENDING CERTAIN PROVISIONS OF REPUBLIC ACT NO. 9287 OTHERWISE KNOWN AS "AN ACT INCREASING THE PENALTIES OF ILLEGAL NUMBERS GAMES," BY INCLUDING ALTOGETHER ALL FORMS OF ILLEGAL GAMBLING, CREATING THE ANTI-ILLEGAL GAMBLING BOARD, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Manuel "Lito" M. Lapid

To the Committee on Games, Amusement and Sports

Senate Bill No. 54, entitled

AN ACT PROVIDING RETIREMENT, INSURANCE, HEALTH AND EDUCATIONAL BENEFITS TO OVERSEAS CONTRACT WORKERS (OCWs) AND THEIR BENEFICIARIES AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF REPUBLIC ACT NO. 8042 OTHERWISE KNOWN AS "MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995," AND FOR OTHER PURPOSES

Introduced by Senator Manuel "Lito" M. Lapid

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

Senate Bill No. 55, entitled

AN ACT REQUIRING THE TEACHING OF DISASTER AWARENESS AND DISASTER MITIGATION AS PART OF THE CURRICULUM OF ALL PRIMARY AND SECONDARY SCHOOLS, AND FOR OTHER PURPOSES

Introduced by Senator Manuel "Lito" M. Lapid

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

Senate Bill No. 56, entitled

AN ACT REQUIRING INTERNET CAFES AND EDUCATIONAL INSTITUTIONS WITH INTERNET ACCESS TO INSTALL A SOFTWARE TECHNOLOGY FOR BLOCKING INTERNET WEBSITES DISPLAYING OBSCENE AND VIOLENT MATERIALS PROVIDING PENALTIES THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Manuel "Lito" M. Lapid

To the Committees on Education, Arts and Culture; and Public Information and Mass Media

Senate Bill No. 57, entitled

AN ACT INSTITUTING A POLICY FOR NATIONAL ROAD ACCIDENT PREVENTION AND SAFETY AWARENESS SCHEME FOR CHILDREN, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Manuel "Lito" M. Lapid

To the Committees on Public Works; Local Government; and Finance

Senate Bill No. 58, entitled

AN ACT INSTITUTING A COMPREHENSIVE AND HOLISTIC MECHANISM FOR THE PROMOTION OF MEDICAL

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**TOURISM IN THE COUNTRY AND
FOR OTHER PURPOSES**

Introduced by Senator Manuel "Lito" M.
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**To the Committees on Health and
Demography; Tourism; and Finance**

Senate Bill No. 59, entitled

AN ACT REQUIRING ALL COLLEGES
AND UNIVERSITIES TO PROVIDE
SCHOLARSHIP GRANTS TO POOR
BUT DESERVING STUDENTS
REPRESENTING AT LEAST FIVE
PERCENT (5%) OF THE TOTAL
STUDENT POPULATION, AND FOR
OTHER PURPOSES

Introduced by Senator Manuel "Lito" M.
Lapid

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

Senate Bill No. 60, entitled

AN ACT TO ADVANCE AND DEVELOP
PROFESSIONAL AND AMATEUR
BOXING ESTABLISHING THE
PHILIPPINE BOXING ACADEMY
UNDER THE GAMES AND AMUSE-
MENT BOARD (GAB) APPRO-
PRIATING FUNDS THEREFOR AND
FOR OTHER PURPOSES

Introduced by Senator Manuel "Lito" M.
Lapid

**To the Committees on Games, Amusement
and Sports; Education, Arts and Culture; Ways
and Means; and Finance**

Senate Bill No. 61, entitled

AN ACT PROVIDING FOR THE
REHABILITATION OR LIQUID-
ATION OF FINANCIALLY DIS-
TRESSED ENTERPRISES

Introduced by Senator Angara

**To the Committees on Banks, Financial Insti-
tutions and Currencies; and Ways and Means**

Senate Bill No. 62, entitled

AN ACT ESTABLISHING A CREDIT
INFORMATION SYSTEM, AND FOR
OTHER PURPOSES

Introduced by Senator Angara

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

Senate Bill No. 63, entitled

AN ACT PROVIDING THE REGULA-
TORY FRAMEWORK FOR REAL
ESTATE INVESTMENT TRUSTS
AND FOR OTHER PURPOSES

Introduced by Senator Angara

**To the Committees on Banks, Financial Insti-
tutions and Currencies; and Ways and Means**

Senate Bill No. 64, entitled

AN ACT ESTABLISHING THE PRE-
NEED CODE OF 2007

Introduced by Senator Angara

**To the Committees on Banks, Financial Insti-
tutions and Currencies; and Trade and Commerce**

Senate Bill No. 65, entitled

AN ACT EXEMPTING FROM THE
EXPANDED VALUE ADDED TAX
THE SALE OF GOODS AND
SERVICES TO SENIOR CITIZENS,
AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 9257, OTHER-
WISE KNOWN AS THE EXPANDED
SENIOR CITIZENS ACT OF 2003

Introduced by Senator Angara

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

Senate Bill No. 66, entitled

AN ACT PROVIDING FOR THE PRO-
TECTION AND CONSERVATION OF
THE NATIONAL CULTURAL

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HERITAGE STRENGTHENING THE NATIONAL COMMISSION FOR CULTURE AND THE ARTS (NCCA), AND ITS AFFILIATED CULTURAL AGENCIES, AND FOR OTHER PURPOSES

Introduced by Senator Angara

To the Committees on Education, Arts and Culture; Ways and Means; and Finance

Senate Bill No. 67, entitled

AN ACT STRENGTHENING THE POLITICAL PARTY SYSTEM, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Angara

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

Senate Bill No. 68, entitled

AN ACT INSTITUTIONALIZING REFORMS IN LAND ADMINISTRATION, CREATING FOR THE PURPOSE THE LAND ADMINISTRATION AUTHORITY AND FOR OTHER PURPOSES

Introduced by Senator Angara

To the Committees on Environment and Natural Resources; Civil Service and Government Reorganization; and Ways and Means

Senate Bill No. 69, entitled

AN ACT UPGRADING THE MINIMUM SALARY GRADE LEVEL OF TEACHERS FROM SALARY GRADE 10 TO 19

Introduced by Senator Angara

To the Committees on Education, Arts and Culture; Civil Service and Government Reorganization; and Finance

Senate Bill No. 70, entitled

AN ACT ESTABLISHING A PROVIDENT PERSONAL SAVINGS PLAN, KNOWN

AS THE PERSONAL EQUITY AND RETIREMENT ACCOUNT ('PERA')

Introduced by Senator Angara

To the Committees on Banks, Financial Institutions and Currencies; and Ways and Means

Senate Bill No. 71, entitled

AN ACT EXEMPTING THE PHILIPPINE FILM AND MOVIE INDUSTRY FROM THE PAYMENT OF CERTAIN TAXES, AMENDING FOR THE PURPOSE CERTAIN PROVISIONS OF THE LOCAL GOVERNMENT CODE OF 1991, THE NATIONAL INTERNAL REVENUE CODE OF THE PHILIPPINES, AND FOR OTHER PURPOSES

Introduced by Senator Loren Legarda

To the Committees on Ways and Means; and Local Government

Senate Bill No. 72, entitled

AN ACT PROVIDING FOR SECURITY OF TENURE, CODE OF CONDUCT AND ADDITIONAL BENEFITS TO TEACHERS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 4670, OTHERWISE KNOWN AS THE MAGNA CARTA FOR PUBLIC SCHOOL TEACHERS, AND FOR OTHER PURPOSES

Introduced by Senator Loren Legarda

To the Committees on Education, Arts and Culture; Civil Service and Government Reorganization; and Finance

Senate Bill No. 73, entitled

AN ACT TOTALLY BANNING LOGGING OPERATIONS FOR THE NEXT TWENTY-FIVE YEARS, AND FOR OTHER PURPOSES

Introduced by Senator Loren Legarda

To the Committee on Environment and Natural Resources

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Senate Bill No. 74, entitled

AN ACT DECLARING THE TENTH DAY OF *ZHUL HIJJA*, THE TWELFTH MONTH OF THE ISLAMIC CALENDAR, A NATIONAL HOLIDAY FOR THE OBSERVANCE OF *EIDUL ADHA*, AMENDING FOR THE PURPOSE SECTION 26, CHAPTER 7 OF EXECUTIVE ORDER NO. 292, OTHERWISE KNOWN AS THE ADMINISTRATIVE CODE OF 1987, AND FOR OTHER PURPOSES

Introduced by Senator Loren Legarda

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

Senate Bill No. 75, entitled

AN ACT BROADENING THE SCOPE OF COMPLIANCE AND 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 Loren Legarda

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

Senate Bill No. 76, entitled

AN ACT INSTITUTING A NATIONAL LAND USE POLICY, PROVIDING THE IMPLEMENTING MECHANISMS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Loren Legarda

To the Committees on Environment and Natural Resources; Urban Planning, Housing and Resettlement; and Finance

Senate Bill No. 77, entitled

AN ACT INSTITUTING REGULATORY POLICIES FOR THE HOUSEHOLD

EMPLOYMENT INDUSTRY, ESTABLISHING STANDARDS OF PROTECTION AND PROMOTION OF THEIR WELFARE AND OF THEIR FAMILIES, AMENDING FOR THE PURPOSE PERTINENT PROVISIONS OF PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES AND FOR OTHER PURPOSES

Introduced by Senator Loren Legarda

To the Committee on Labor, Employment and Human Resources Development

Senate Bill No. 78, entitled

AN ACT REQUIRING THE LOCAL GOVERNMENT UNITS TO CONDUCT A QUARTERLY BREAST CANCER DETECTION PROGRAM

Introduced by Senator Loren Legarda

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

Senate Bill No. 79, entitled

AN ACT EXEMPTING SENIOR CITIZENS FROM THE PAYMENT OF REAL PROPERTY TAX UNDER CERTAIN CONDITIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7432, OTHERWISE KNOWN AS AN ACT TO MAXIMIZE THE CONTRIBUTION OF SENIOR CITIZENS TO NATION BUILDING, GRANT BENEFITS AND SPECIAL PRIVILEGES AND FOR OTHER PURPOSES, AS AMENDED BY REPUBLIC ACT NO. 9357, OTHERWISE KNOWN AS THE EXPANDED SENIOR CITIZENS ACT OF 2003, AND FOR OTHER PURPOSES

Introduced by Senator Loren Legarda

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

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Senate Bill No. 80, entitled

AN ACT PROVIDING FOR SUSTAINABLE FOREST MANAGEMENT

Introduced by Senator Loren Legarda

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

Senate Bill No. 81, entitled

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

Introduced by Senator Honasan

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

Senate Bill No. 82, entitled

AN ACT INSTITUTING A NATIONAL LAND USE POLICY, PROVIDING THE IMPLEMENTING MECHANISMS THEREFOR, AND FOR OTHER PURPOSES

Introduced by Senator Honasan

To the Committees on Environment and Natural Resources; Urban Planning, Housing and Resettlement; and Finance

Senate Bill No. 83, entitled

AN ACT DEFINING AS A CRIME THE ACT OF DRIVING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF LIQUOR AND/OR PROHIBITED DRUGS AND PROVIDING GRADUATED PENALTIES THEREFOR

Introduced by Senator Manny Villar

To the Committees on Justice and Human Rights; and Public Services

Senate Bill No. 84, entitled

AN ACT TO PROVIDE FOR TOY SAFETY LABELING

Introduced by Senator Manny Villar

To the Committee on Trade and Commerce

Senate Bill No. 85, entitled

AN ACT PROHIBITING PRIVATE AND PUBLIC SCHOOLS FROM DISALLOWING STUDENTS WITH DELINQUENT TUITION FEES TO TAKE THE MID-TERM OR FINAL EXAMINATIONS AND FOR OTHER PURPOSES

Introduced by Senator Manny Villar

To the Committee on Education, Arts and Culture

Senate Bill No. 86, entitled

AN ACT REQUIRING ALL INDEPENDENT POWER PRODUCERS, GENERATION COMPANIES OR ENERGY RESOURCE DEVELOPERS TO REMIT THE AMOUNT THEY ARE REQUIRED TO SET ASIDE AS FINANCIAL BENEFIT DIRECTLY TO THE HOST COMMUNITY

Introduced by Senator Lacson

To the Committees on Energy; and Local Government

Senate Bill No. 87, entitled

AN ACT CONVERTING THE SULTAN KUDARAT POLYTECHNIC STATE COLLEGE IN THE CITY OF TACURONG, PROVINCE OF SULTAN KUDARAT, INTO A STATE UNIVERSITY, TO BE KNOWN AS CENTRAL COTABATO STATE UNIVERSITY, AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Lacson

To the Committee on Rules *MS*

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Senate Bill No. 88, entitled

AN ACT DECLARING A NATIONAL POLICY FOR TOURISM AS AN ENGINE OF INVESTMENT, EMPLOYMENT, GROWTH AND NATIONAL DEVELOPMENT, REORGANIZING THE DEPARTMENT OF TOURISM AND ITS ATTACHED AGENCIES TO EFFECTIVELY AND EFFICIENTLY IMPLEMENT THAT POLICY, PROVIDING NECESSARY INCENTIVES FOR INVESTMENT AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Gordon

To the Committees on Tourism; Civil Service and Government Reorganization; Ways and Means; and Finance

Senate Bill No. 89, entitled

AN ACT PROVIDING PROTECTION AND REMEDIES TO BUYERS OF NEW AND USED MOTOR VEHICLES

Introduced by Senator Manny Villar

To the Committee on Trade and Commerce

Senate Bill No. 90, entitled

AN ACT PROVIDING FOR CHEAPER MEDICINES AND FOR OTHER PURPOSES

Introduced by Senator Manny Villar

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

Senate Bill No. 91, entitled

AN ACT REQUIRING THE RECYCLING AND THE UTILIZATION OF RECYCLED MATERIALS BY EDUCATIONAL INSTITUTIONS

Introduced by Senator Manny Villar

To the Committees on Environment and Natural Resources; Education, Arts and Culture; and Finance

Senate Bill No. 92, entitled

AN ACT PROVIDING PROVISIONAL RELIEF TO CERTAIN VICTIMS OF TYPHOONS, EARTHQUAKES, VOLCANIC ERUPTIONS OR OTHER SIMILAR DISASTERS BY GRANTING SPECIAL DEDUCTIONS FROM INCOME AND REAL PROPERTY TAXES IN THEIR FAVOR

Introduced by Senator Manny Villar

To the Committee on Ways and Means

Senate Bill No. 93, entitled

AN ACT ESTABLISHING QUALITY STANDARDS FOR MINERAL WATER AND CARBONATED WATER

Introduced by Senator Manny Villar

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

Senate Bill No. 94, entitled

AN ACT TO PROMOTE, DEVELOP AND ASSIST MICRO AND COTTAGE INDUSTRIES BY PROVIDING AN EFFECTIVE AND RATIONAL SYSTEM TO ADDRESS THEIR PRODUCTION AND TECHNOLOGY NEEDS

Introduced by Senator Manny Villar

To the Committees on Trade and Commerce; Local Government; and Finance

Senate Bill No. 95, entitled

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

Introduced by Senator Manny Villar

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

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Senate Bill No. 96, entitled

AN ACT REQUIRING THE MANDATORY COMPLIANCE BY MOTORISTS OF PRIVATE AND PUBLIC VEHICLES TO USE HANDS-FREE DEVICES WHILE DRIVING

Introduced by Senator Manny Villar

To the Committee on Public Services

Senate Bill No. 97, entitled

AN ACT ESTABLISHING THE BOOKS FOR THE BARRIOS PROGRAM AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Manny Villar

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

Senate Bill No. 98, entitled

AN ACT TO CONSERVE AND PROTECT THE PUBLIC FORESTS, MANGROVES AND WILDLIFE THEREIN THROUGH A PROGRAM OF RENEWAL, REFORESTATION AND REPLANTING, AND FOR OTHER PURPOSES

Introduced by Senator Manny Villar

To the Committees on Environment and Natural Resources; and Finance

Senate Bill No. 99, entitled

AN ACT MANDATING THE PAYMENT OF RETIREMENT BENEFITS TO SSS OR GSIS MEMBERS WITHIN A MAXIMUM PERIOD OF THIRTY (30) DAYS FROM THE RETIREMENT DATE AND FOR OTHER PURPOSES

Introduced by Senator Manny Villar

To the Committee on Government Corporations and Public Enterprises

Senate Bill No. 100, entitled

AN ACT CREATING A NATIONAL STUDENT LOAN BOARD TO FORMULATE AND IMPLEMENT A NATIONAL STUDENT LOAN PROGRAM FOR THE POOR, AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Manny Villar

To the Committees on Education, Arts and Culture; Ways and Means; and Finance

ADDITIONAL REFERENCE OF BUSINESS

RESOLUTIONS

Senate Joint Resolution No. 1, entitled

JOINT RESOLUTION EXPRESSING THE SENSE OF CONGRESS TO INCREASE THE COMBAT DUTY PAY OF ALL OFFICERS AND ENLISTED PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES (AFP) TO TWENTY-FIVE PER CENTUM (25%) OF THE BASE PAY AND PROVIDING FUNDS THEREFOR

Introduced by Senator Biazon

To the Committees on National Defense and Security; and Finance

Proposed Senate Resolution No. 26, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE FORMULATION OF MECHANISMS TO AMEND THE PAGCOR CHARTER IN ORDER TO IMPROVE THE EFFICIENCY IN THE USE OF ITS FUNDS, AND THE TRANSPARENCY IN ITS OPERATIONS

Introduced by Senator Miriam Defensor Santiago

To the Committees on Public Services; and Games, Amusement and Sports

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Proposed Senate Resolution No. 27, entitled

RESOLUTION REVIVING THE "ONE SENATOR, ONE MACHINE" PROJECT FOR THE PHILIPPINE GENERAL HOSPITAL

Introduced by Senator Miriam Defensor Santiago

To the Committee on Rules

Proposed Senate Resolution No. 28, entitled

RESOLUTION DIRECTING THE SENATE BLUE RIBBON COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED EXTORTION RACKET IN THE COMMISSION ON APPOINTMENTS

Introduced by Senator Miriam Defensor Santiago

To the Committee on Accountability of Public Officers and Investigations

Proposed Senate Resolution No. 29, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED USE OF GAS RATION PRIVILEGES BY RETIRED MEMBERS OF THE ARMED FORCES OF THE PHILIPPINES (AFP) AND THE PHILIPPINE NATIONAL POLICE (PNP)

Introduced by Senator Miriam Defensor Santiago

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

Proposed Senate Resolution No. 30, entitled

RESOLUTION DIRECTING THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS (DPWH) AND THE ROAD USERS' TAX BOARD TO ACCOUNT FOR THE PROCEEDS OF THE ROAD USERS' TAX

Introduced by Senator Miriam Defensor Santiago

To the Committees on Ways and Means; and Public Works

Proposed Senate Resolution No. 31, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON AGRICULTURE AND OTHER APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON SIXTEEN (16) AGRI-BUSINESS CONTRACTS/AGREEMENTS BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE PEOPLE'S REPUBLIC OF CHINA

Introduced by Senator Biazon

To the Committees on Agriculture and Food; and Foreign Relations

Proposed Senate Resolution No. 32, entitled

RESOLUTION DIRECTING THE COMMITTEE ON NATIONAL DEFENSE AND SECURITY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ARMED FORCES OF THE PHILIPPINES-RETIREMENT AND SEPARATION BENEFITS SYSTEM (AFP-RSBS) IN RELATION TO ITS MANDATE AND ORGANIZATIONAL VIABILITY

Introduced by Senator Biazon

To the Committee on National Defense and Security

Proposed Senate Resolution No. 33, entitled

RESOLUTION DIRECTING THE COMMITTEE ON NATIONAL DEFENSE AND SECURITY TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE STATUS OF THE PHILIPPINE COAST GUARD (PCG) TO DETERMINE APPLICABLE LAWS IN ITS ADMINISTRATION AND THE

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TREATMENT OF ITS OFFICERS
AND PERSONNEL

Introduced by Senator Biazon

**To the Committees on National Defense
and Security; and Civil Service and Govern-
ment Reorganization**

Proposed Senate Resolution No. 34, entitled

RESOLUTION DIRECTING THE
COMMITTEE ON NATIONAL
DEFENSE AND SECURITY TO
CONDUCT AN INQUIRY, IN AID
OF LEGISLATION, ON THE IMPE-
LEMENTATION OF THE ARMED
FORCES OF THE PHILIPPINES
MODERNIZATION PROGRAM,
WITH FOCUS ON ITS OBJECTIVES,
PRIORITIZATION IN EQUIPMENT
ACQUISITION AND FUNDING
REQUIREMENTS AND SOURCES IN
RELATION TO THE COUNTRY'S
PRESENT NEEDS

Introduced by Senator Biazon

**To the Committee on National Defense
and Security**

Proposed Senate Resolution No. 35, entitled

RESOLUTION DIRECTING THE
COMMITTEE ON ENVIRONMENT
AND NATURAL RESOURCES TO
INQUIRE, IN AID OF LEGISLATION,
INTO THE IMPLICATIONS OF THE
RECENT PRONOUNCEMENT BY
PRESIDENT GLORIA MACAPAGAL-
ARROYO DECLARING THE LA MESA
WATERSHED AS A PROTECTED
AREA "SUBJECT TO PRIVATE
RIGHTS" AS THIS COULD PAVE
THE WAY FOR THE CONSTRU-
TION OF A CONTROVERSIAL
HOUSING PROJECT, ENDANGER
THE PRIMARY SOURCE OF METRO
MANILA'S WATER SUPPLY AND
PREJUDICE THE LEGAL DECLAR-
ATION OF THIS ENVIRON-
MENTALLY-CRITICAL AREA AS A
STRICT PROTECTION ZONE

Introduced by Senator M.A. Madrigal

**To the Committee on Environment and
Natural Resources**

Proposed Senate Resolution No. 36, entitled

RESOLUTION EXPRESSING THE
PROFOUND SYMPATHY AND
SINCERE CONDOLENCE OF THE
SENATE OF THE PHILIPPINES
ON THE DEATH OF THE HONOR-
ABLE SENATOR LEONARDO B.
PEREZ

Introduced by Senator Manny Villar

To the Committee on Rules

**SECOND ADDITIONAL
REFERENCE OF BUSINESS**

RESOLUTION

Proposed Senate Resolution No. 37, entitled

RESOLUTION COMMENDING THE
MEMBERS OF THE PHILIPPINE
MARINES WHO BRAVELY FOUGHT
AND SACRIFICED THEIR LIVES,
AS WELL AS THOSE WOUNDED,
IN TIPO-TIPO, BASILAN FOR
THE SAFETY OF OUR PEOPLE
AND THE INTEGRITY OF OUR
TERRITORY

Introduced by Senator Gordon

To the Committee on Rules

PROPOSED SENATE RESOLUTION NO. 22

Upon motion of Senator Pangilinan, there being
no objection, the Body resumed consideration of
Proposed Senate Resolution No. 22, entitled:

RESOLUTION EXPRESSING THE
SENSE OF THE SENATE THAT
SENATOR ANTONIO TRILLANES
IV BE ALLOWED TO PARTICI-
PATE IN THE SESSIONS AND
OTHER FUNCTIONS OF THE
SENATE

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REMARKS OF SENATOR ENRILE

In view of the voting to be conducted by the Members, Senator Enrile sought the Body's permission to read into the Record of the Senate the dissent of four Members with respect to the resolution. He said that the written dissent, which was authored by Senator Arroyo, was concurred in by Senators Gordon, Defensor Santiago and himself.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 4:08 p.m.

RESUMPTION OF SESSION

At 4:09 p.m., the session was resumed.

DISSENT TO PROPOSED SENATE RESOLUTION NO. 22

Senator Enrile read into the Record the dissent of four Members to Proposed Senate Resolution No. 22, to wit:

14th Congress of the Republic
of the Philippines
First Regular Session

PROPOSED SENATE RESOLUTION NO. 22

DISSENT

However we may sympathize with the situation of our colleague, Senator Antonio Trillanes IV, we consider it our duty to register formally our objection to the aforesaid resolution on constitutional grounds as ruled four-square in an identical case by the Supreme Court in a unanimous decision in *People of the Philippines vs. Romeo G. Jalosjos* in 2000.

On the issue that since Sen. Trillanes was voted by more than 12 million voters, the people want him to sit and perform the duties of senator, the Supreme Court decreed:

"The primary argument of the movant is the 'mandate of sovereign will.'"

x x x

"We start with the incontestable proposition that all top officials of

Government—executive, legislative, and judicial are subject to the majesty of law. *There is an unfortunate misimpression in the public mind that election or appointment to high government office, by itself, frees the official from the common restraints of general law.* Privilege has to be granted by law, not inferred from the duties of a position. In fact, the higher the rank, the greater is the requirement of obedience rather than exemption."

x x x

"When the voters of his district elected the accused-appellant to Congress, they did so with full awareness of the limitations on his freedom of action. They did so with the knowledge that he could achieve only such legislative results which he could accomplish within the confines of prison. x x x.

In the ultimate analysis, the issue before us boils down to a question of constitutional equal protection.

The Constitution guarantees: x x x nor shall any person be denied the equal protection of laws. This simply means that all persons similarly situated shall be treated alike both in rights enjoyed and responsibilities imposed."

On the corollary issue that an elected member of Congress has the duty to serve his constituents, the Supreme Court intoned:

"The accused-appellant avers that his constituents in the First District of Zamboanga del Norte want their voices to be heard and that since he is treated as *bona fide* member of the House of Representatives, the latter urges a co-equal branch of government to respect his mandate. He also claims that the concept of temporary detention does not necessarily curtail his duty to discharge his mandate and that he has always complied with the conditions/restrictions when he is allowed to leave jail."

"We remained unpersuaded."

"No less than accused-appellant himself admits that like any other member of the House of Representatives "[h]e is provided with a congressional office situated at Room N-214, North

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Wing Building, House of Representatives Complex, Batasan Hills, Quezon City, manned by a full complement of staff paid for by Congress. Through [an] inter-department coordination, he is also provided with an office at the Administration Building, New Bilibid Prison, Muntinlupa City, where he attends to his constituents." Accused-appellant further admits that while under detention, he has filed several bills and resolutions. It also appears that he has been receiving his salaries and other monetary benefits. Succinctly stated, accused-appellant has been discharging his mandate as a Member of the House of Representatives consistent with the restraints upon one who is presently under detention. *Being a detainee, accused-appellant should not even have been allowed by the prison authorities at the National Penitentiary to perform these acts.*"

"The performance of legitimate and even essential duties by public officers has never been an excuse to free a person validly in prison. The duties imposed by the "mandate of the people" are multifarious. The accused-appellant is only one of 250 members of the House of Representatives, not to mention the 24 members of the Senate, charged with the duties of legislation. Congress continues to function well in the physical absence of one or a few of its members."

The High Court concluded:

"One rationale behind confinement, whether pending appeal or after final conviction, is public self-defense. Society must protect itself. It also serves as an example and warning to others."

Premises considered, we are constrained to rule against the accused-appellant's claim that re-election to public office gives priority to any other right or interest, including the police power of the State.

The Montano case is inapplicable.

We are at a loss to understand how and why Petitioners assert that "the Supreme Court allowed him (Montano) bail so that he could join session of Congress and perform his other duties as an elected Senator."

The Supreme Court said no such thing. Senator Montano asked the Supreme Court to allow him to post bail because the evidence of guilt, contrary to the lower court's findings, was not strong. The Supreme Court granted him bail. That was all and nothing more.

Nothing was said by even Senator Montano, who was detained, that he be allowed bail so that he could perform his duties as senator, as contra-distinguished from Congressman Jalosjos who went to the Supreme Court to ask for arrangements so that he could perform his duties as congressman.

Senator Montano, who simply asked for bail won; he was granted bail. Congressman Jalosjos who invoked his re-election as a ground to be free to perform his function lost.

The Senate stand in 1953

In the Montano case, the Senate which counted among its illustrious members then — Claro Recto, Jose P. Laurel, Lorenzo Tañada, Quintin Paredes, Camilo Osias, Manuel Briones, Vicente Madrigal, Carlos P. Garcia, Lorenzo Sumulong and Cipriano Primicias — were careful and prudent enough not to pass a resolution on behalf of their detained colleague. (*Congressional Record of the Senate*, 07 February 1953)

What the Senate did at that time was simply to move to insert into the Record the Supreme Court resolution on the Montano case of January 29, 1953. That was all. They did not intrude into the independence of the Judiciary, conscious of separation of powers.

Here, in this particular case, petitioners would want to do what the Senate in 1953 did not dare do.

Thus, the four of us, Senators Joker P. Arroyo, Miriam Defensor Santiago, Richard Gordon and yours truly, oppose this instant resolution.

Let history judge.

VOTING ON PROPOSED SENATE RESOLUTION NO. 22

At this point, the Chair called for a division of the House as it requested those in favor of the approval of Proposed Senate Resolution No. 22 to raise their hands and, thereafter, requested those against it to do the same.

Senator Enrile moved for a nominal vote. *He*

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Thereupon, Secretary Reyes called the roll for nominal voting.

RESULT OF THE VOTING

The result of the voting was as follows:

In favor

Angara	Legarda
Aquino	Madrigal
Biazon	Pangilinan
Cayetano (A)	Pimentel
Cayetano (P)	Revilla
Ejercito Estrada	Roxas
Escudero	Zubiri
Honasan	Villar
Lacson	

Against

Arroyo	Enrile
Defensor Santiago	Gordon

With 17 senators voting in favor, four against, and no abstention, Proposed Senate Resolution No. 22 was adopted by the Body.

EXPLANATIONS OF VOTE

By Senator Angara

Senator Angara stressed that he shared the reasoning behind the dissent which is to uphold the rule of law no matter how high or low the position of the concerned person. He clarified, therefore, that his affirmative vote does not mean that he was, in effect, disregarding the rule of law without which, the nation would cut corners and continue to cut corners. He cited the assurance given by the proponents that the resolution does not disregard the processes of the law and it is not intended to send the signal that one can commit a crime of similar nature and get away with it by being elected to public office.

Senator Angara believed that the dissent was well-researched and well-reasoned; however, the life of the law is not merely logic but experience as well, as he pointed out the reality that Senator Trillanes has been elected and it would be a pity if the Members cannot share the expertise, experience and insights that he may be able to provide despite the fact that he is under the constraints of the law.

On that basis, he said, he voted for Senator Trillanes' participation in the Senate, adding that everyone must uphold the law and that he bows to the reality of the situation.

By Senator Defensor Santiago

In explaining her negative vote, Senator Defensor Santiago delivered the following statement:

I vote "no" on the Trillanes resolution, on the following grounds:

1. It violates the constitutional doctrine of separation of powers;
2. It violates the constitutional doctrine of the independence of the Judiciary; and
3. It violates the Equal Protection Clause of the Constitution.

FIRST GROUND – THIS RESOLUTION VIOLATES THE CONSTITUTIONAL DOCTRINE OF SEPARATION OF POWERS

Our Constitution does not contain an express provision for the separation of powers. But some constitutional law scholars describe the doctrine of separation of powers as "probably the most important principle of government declaring and guaranteeing the liberties of the people." We simply imply this doctrine from Articles VI, VII, and VIII, which create separate legislative, executive, and judicial departments. Because we merely draw it by implication from these articles, we cannot define the doctrine precisely.

But it is obvious that since the Senate is part of the legislative branch of government, it should confine itself to matters that could only properly be the subject of lawmaking. The question of the detention of a person accused of a crime is judicial, not legislative, in nature. To use a sense of the Senate resolution to deal with a case pending in court, I humbly submit, would be a misuse of the sense of the Senate tradition.

This tradition that we copied from the United States Congress allows that one or both houses of the Congress may formally express opinions about subjects of current national interest through freestanding simple or concurrent resolutions (called generically "sense of the House," "sense of the Senate," or "sense of Congress" resolutions). These opinions may also be added to pending legislative measures by amendments expressing the views of one or both chambers.



Sense of the House or sense of the Senate resolutions take the form of simple resolutions because they only require the approval of one chamber. "Sense of" resolutions are considered under the normal legislative processes of each chamber applicable to any other legislative vehicle. Because "sense of" resolutions do not involve the expenditure of public funds, such resolutions when reported from House committees are placed on the House calendar. Typically, the House considers them through suspension motions, unanimous consent requests, or by special rules. The Senate normally takes up "sense of" resolutions through unanimous consent requests or, more and frequently, they are automatically laid before the Senate under the "resolutions, over, under the Rule process." This is under Senate Rule XIV of the U.S. Senate.

A "sense of" resolution is not legally binding because it is not presented to the President for her signature. Even if a "sense of" provision is incorporated into a bill that becomes a law, such provisions merely express the opinion of Congress or the relevant chamber. They have no formal effect on public policy.

A sense of the Senate resolution is non-binding legislation that simply offers the opinion of the body but does not make the law. Although often purely symbolic in nature, such resolution can also indicate which way the Senate is likely to head on other legislation.

Sense of resolutions and amendments expressing the sense of one or both houses of Congress have covered many issues. A survey of "sense of" resolutions and amendments offered during the 105th Congress of the United States from which we copied this tradition shows that most of them focused on foreign policy matters, particularly resolutions that express the sense of the Senate. However, "sense of" proposals have also addressed domestic policy issues, such as calling for certain federal agencies or officials to take specified action or to refrain from some action.

In other words, please allow me to emphasize in the jurisdiction from which we copied this tradition, no "sense of" the Senate resolution has ever been passed concerning a matter ending before the judicial branch of government. "Sense of" the Senate resolutions have only been used to express the opinion of the Senate either on foreign on policy issues or on domestic policy issues.

When members of the House, Senate or entire Congress want to "send a message," or

state an opinion, they try to pass a "sense of" resolution. Since such resolutions do not create law, what good are they?

Simple or joint resolutions expressing the "sense of" the Senate, House or Congress merely express a majority opinion. They do not make law, they are not enforceable. Only bills and joint resolutions create laws.

"Sense of" legislation can come in the form of simple resolutions, hence, would be known as House Resolution or Senate Resolution, used to express the opinion of the House or Senate alone, or as Concurrent Resolutions known as House Concurrent Resolution or Senate Concurrent Resolution used to express the opinion of the entire Congress. "Sense of" resolutions can also be added as amendments to regular House or Senate bills. Even when added to regular bills, "sense of" amendments have no force of law.

"Sense of" resolutions are typically used as:

For the record: this is a way for individual members of Congress to go on the record as supporting or opposing a particular policy or concept;

Political persuasion: a simple attempt by a group of members to persuade other members to support their cause or opinion;

Appeal to the president: an attempt to get the president to take or not take some specific action, most graphically illustrated by U.S. Senate Senate Concurrent Resolution No. 2, considered by U.S. Congress in January 2007, condemning President Bush's order sending over 20,000 additional U.S. troops into the war in Iraq;

On foreign affairs: a way to express the opinion of the people of the United States to the government of a foreign nation; and

Just saying "thanks": a way to send the congratulations or gratitude of Congress to individual citizens or groups. For example, congratulating U.S. Olympic champions or thanking military troops for their sacrifice.

"Sense of" resolutions require only a simple majority vote to pass and, since they do not create laws, do not require the signature of the president.

Although "sense of" resolutions have no force in law, foreign governments pay close attention to them as evidence of shifts in U.S. foreign policy priorities. *MS*

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Finally, no matter how momentous or threatening the language used in "sense of" resolutions may be, remember that they are merely a political tactic and create no laws, whatsoever.

SECOND GROUND – THIS RESOLUTION VIOLATES THE CONSTITUTIONAL DOCTRINE OF THE INDEPENDENCE OF THE JUDICIARY.

Let me tell this Body a recorded story. A group of litigants held a demonstration in front of the Supreme Court building. The Court ordered them to show cause why they should not be held in contempt of court. The litigants apologized, and the Court dismissed the contempt charges. The Supreme Court ruled in that case of *Nestle v. Sanchez*, 154 SCRA, 542 (1987) issued *per curiam* – meaning to say, it was the unanimous vote of the Supreme Court:

The court will not hesitate in future similar situations to apply the full force of the law and punish for contempt those who attempt to pressure the Court into acting one way or the other in any case pending before it. Grievances, if any, must be ventilated through the proper channels, i.e., through appropriate petitions, motions or other pleadings in keeping with the respect due to the courts as impartial administrators of justice entitled to "proceed to the disposition of its business in an orderly manner, free from outside interference obstructive to its functions and tending to embarrass the administration of justice."

The right of petition is conceded to be an inherent right of the citizen under all free governments. However, such right, natural and inherent though it may be, has never been invoked to shatter the standards of propriety entertained for the conduct of courts. For "it is a traditional conviction of civilized society everywhere that courts and juries, in the decision of issues of fact and law, should be immune from every extraneous influence; that facts should be decided upon evidence produced in courts; and that the determination of such facts should be uninfluenced by biased, prejudice or sympathies."

Moreover, parties have a constitutional right to have their causes tried fairly in court by an impartial tribunal,

uninfluenced by publication or public clamor. Every citizen has a profound personal interest in the enforcement of the fundamental right to have justice administered by the courts, under the protection and forms of law free from *outside coercion or interference*.

The aforesaid acts of the respondents are therefore not only an affront to the dignity of this Court, but equally a violation of the above stated right-of the adverse parties and the citizenry at large.

THIRD GROUND – THIS RESOLUTION VIOLATES THE EQUAL PROTECTION LAWS CLAUSE OF THE CONSTITUTION

The *lis mota* of this resolution has already been settled by the Supreme Court in the case of *People v. Jalosjos*, 324 SCRA 698 decided in 2000. This afternoon, the media were shocked when I attempted to educate them that in jurisprudence the last decision, the last-in date decision of the Supreme Court is the one that prevails. If there is a later decision, after 2000, then I will stand corrected but as far as I am aware in my book on Constitutional Law, I cite *People v. Jalosjos* because it is the latest and, therefore, the ruling case law.

Under the doctrine of *res judicata*, a matter once judicially decided is finally decided. Under the doctrine of judicial precedent, a decision of the court furnishes an authority for a similar case afterward arising on a similar question of law. Under the doctrine of *stare decisis*, the court will stand by precedent and will not disturb a settled point. In Latin, the maxim is *Stare decisis et non quieta movere*. In English, adhere to precedents, and do not unsettle things which are established. In *Jalosjos*, the Supreme Court ruled:

What the accused-appellant seeks is not of an emergency nature. Allowing accused-appellant to attend congressional sessions and committee meetings for five (5) days or more in a week will virtually make him a free man with all the privileges appurtenant to his position. Such an aberrant situation not only elevates the accused-appellant's status to that of a special class, it also would be a mockery of the purposes of the correction system.

The accused-appellant avers that his constituents in the First District of

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Zamboanga del Norte want their voices to be heard and that since he is treated as a *bona fide* member of the House of Representatives, the latter urges a co-equal branch of government to respect his mandate. He also claims that the concept of temporary detention does not necessarily curtail his duty to discharge his mandate and that he has always complied with the conditions/restrictions when he is allowed to leave jail.

When the voters of his district elected the accused-appellant to Congress, they did so with full awareness of the limitations on his freedom of action. They did so with the knowledge that he could achieve only such legislative results which he could accomplish within the confines of prison. To give a more drastic illustration, if voters elect a person with full knowledge that he is suffering from a terminal illness, they do so knowing that, at any time, he may no longer serve his full term in office.

Does being an elective official result in a substantial distinction that allows different treatment? Is being a congressman a substantial differentiation which removes the accused-appellant as a prisoner from the same class as all persons validly confined under law?

The performance of legitimate and even essential duties by public officers has never been an excuse to free a person validly in prison. The duties imposed by the "mandate of the people" are multifarious. The accused-appellant asserts that the duty to legislate ranks highest in the hierarchy of government. The accused-appellant is only one of 250 members of the House of Representatives, not to mention the 24 members of the Senate, charged with the duties of legislation. Congress continues to function well in the physical absence of one or a few of its members. Depending on the exigency of government that has to be addressed, the President or the Supreme Court can also be deemed the highest for that particular duty. The importance of a function depends on the need for its exercise. The duty of a mother to nurse her infant is most compelling

under the law of nature. A doctor with unique skills has the duty to save the lives of those with a particular affliction. An elective governor has to serve provincial constituents. A police officer must maintain peace and order. Never has the call of a particular duty lifted a prisoner into a different classification from those others who are validly restrained by law.

The Supreme Court, therefore, finds that election to the position of Congressman is not a reasonable classification in criminal law enforcement. The functions and duties of the office are not substantial distinctions which lift him from the class of prisoners interrupted in their freedom and restricted in liberty of movement. Lawful arrest and confinement are germane to the purposes of the law and apply to all those belonging to the same class.

CONCLUSION


This resolution, I humbly submit, is unnecessary because the Judiciary knows the Rules of Court better than the Senate. This resolution is not beneficial because it will not influence the Judiciary, but may even incur displeasure. And this resolution is not practical because the Senate has no army with which to enforce it.

By Senator Ejercito Estrada

Senator Ejercito Estrada explained that he voted in favor of the resolution not that he wanted the courts to give special treatment to Senator Trillanes nor to unduly influence the courts into immediately releasing or acquitting him.

He said that like President Estrada, Senator Trillanes has become a symbol of protest and a rallying beacon against the abuses and excesses of the present Administration. When taken together, he observed, the 12 million voters were a resounding and overwhelming no-confidence vote on Mrs. Arroyo. He hoped that the voice of Senator Trillanes would be heard in the hallowed Chamber of the Senate.

By Senator Zubiri

Senator Zubiri explained his affirmative vote, to wit: 



Some have argued that by passing this resolution, the Senate may be acting as jail breakers trying to spring one of its own out of jail.

But I have read the resolution, and now amended. It does not say that what we are about to stage is a legalized jailbreak for a colleague.

Neither does the resolution plead for acquittal of an indicted fellow simply because a jury of over 11 million men voted to put him here in this assembly of free men.

We are not preaching acquittal by election for we believe that the acquisition of a mandate to serve does not acquire a man his freedom.

Mere election to public office does not erase our sins. The ballot is not a ticket to liberty.

And to his credit, the man has not invoked his victory as a bail petition co-signed by 11 million men. He, himself, knows that his fate rests on the bench and not on the bar of public opinion.

We have made this clear in the resolution, our obedience to the courts. We have stressed that the courts have primary jurisdiction over his case and we will abide by their ruling.

Mawalang-galang na po sa hukuman, hindi po kami nang-a-arbor ng isang kasamahan.

So what is this resolution all about? To me, it is simply a polite appeal of 22 men and women asking the court to allow a prisoner to discharge his functions as senator and, if it orders so, to define the parameters by which he can carry out his functions.

In short, this is not an appeal in behalf of a man so he can go home and rest, but so he can go to the Senate and work.

My good friends in the majority have argued that we might be setting a bad example, that we might be placing this institution above the law, if not violating the law itself. We might be giving one detainee special treatment, they say, if we pass this resolution.

Even personally, I had doubts in supporting this measure after Senator Trillanes has publicly insulted this humble Representation and maligned my integrity on national television. But I have forgiven him, and in the spirit of reconciliation and magnanimity, I am extending my hands of cooperation. I am looking forward to working and debating with him on issues before this Chamber.

But then again, my friends, this is just a mere sense of the Senate. It is not a binding command of this Body. When passed, it does not become an enforceable statute of the land. But, as I have said earlier, it is just a wish expressed, a recommendation, if you can call it.

When our good senators brilliantly argued their oppositions to the resolution, it reminded me of a scene in the movie "A Man for All Seasons" where Sir Thomas More told Roper of the need to blindly stick to the law. More said in that movie, to the effect that the "country's planted thick with laws from coast to coast and if you cut them down, do you really think that you could stand upright in the winds that would blow them?"

But we are not cutting a thicket of laws to pave the way for a man's march to the Senate. We are only saying that, maybe, there could be an arrangement where he can do his duties without trampling on the law.

Therefore, I vote "Yes" to the resolution.

By Senator Cayetano (A)

Explaining his affirmative vote, Senator Cayetano (A) believed that the matter is a fundamental issue of representation that is basic to any democracy. He recalled that throughout history, tyrants have tried to stop members of parliament from attending sessions to prevent them from exposing abuses and anomalies in government, and even from espousing reforms, which is the reason why European parliaments, the U.S. Congress, and even the Philippine Congress have adopted the concept of parliamentary immunity.

Senator Cayetano stated that President Arroyo has not learned from history as she has gone after her critics, finding ways and means to circumvent parliamentary immunity, which can be illustrated by what she did to the "Batasan 5," in particular, Congressman Beltran; the attempt to arrest Sen. Jinggoy Ejercito Estrada while he was in the Senate; and the issuance of Executive Order No. 464, Proclamation No. 1017, and the adoption of the "No Permit – No Rally" policy.

Senator Cayetano said that the people voted for Senator Trillanes even though he was in jail because they wanted an extra voice of dissent in the Senate, through which the Senator could espouse reform in peaceful and nonviolent means.

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Senator Cayetano pointed out that the Department of Justice, which should be one of the institutions seeking remedy for Senator Trillanes, has turned into an attack dog of the Arroyo administration. He wondered why Senator Trillanes was being treated differently as the DOJ has dropped the rebellion case against Senator Honasan while Chairman Nur Misuari, who was also charged with rebellion, was allowed to campaign in Mindanao and has been permitted to leave the country. *Likewise, he pointed out that the offense Senator Trillanes is charged with is different from that of former Congressman Jalosjos who was charged and convicted for a common crime. He said that it can be argued that the only crime of Senator Trillanes is that, according to the Arroyo government, his group did not succeed in taking over the government.*

Senator Cayetano asserted that in the case of Senator Enrile, a crime was invented to prevent him from performing his functions as senator and it was a mistake on the part of his colleagues not to push for his rights. He pointed out that there is a provision in the Revised Penal Code that if the court cannot rule and give compassion to the accused because the law is too harsh, the court itself can put in their decision and make recommendations to Congress. He said that separation of powers does not mean that one branch of government cannot express its sense to the other branch. He believed that the resolution simply expresses the sense of the Senate and is not aimed at influencing the courts, adding that the DOJ is the one trying to influence the court not to allow Senator Trillanes to attend the Senate sessions.

In closing, Senator Cayetano underscored that the Members did not violate the principle of separation of powers when they signed the resolution.

By Senator Gordon

Senator Gordon stated that he had signed the dissent to the resolution principally written by Senator Arroyo and signed by Senators Defensor Santiago and Enrile. He admitted his difficulty with the subject matter of the resolution principally because the Members were skirting issues that would affect the very nature of the pending case. He pointed out that Senator Trillanes committed a serious offense, a coup d'etat, that made it twice difficult for him to arrive at a decision.

Senator Gordon asked whether it is right for the proponents to say that by virtue of his election by 12 million Filipinos, Senator Trillanes should now be allowed to sit in the Chamber without going through the courts, as everybody else does, even when he is validly represented by his lawyers before the courts. He asked why the issue was being brought to the Senate and why the Body should express its sense to enable Senator Trillanes to sit in the Chamber. He pointed out that the issue was really about *salus populi*, the welfare of the people, even as he noted that people in their collective capacity sometimes may not be able to decide right because they are influenced by emotion. He recalled that the assassination of Ninoy Aquino led to people power which swept Marcos out of office.

Today, Senator Gordon pointed out that the Members were being asked to give an exception to the rule, even playing with the constitutionally enshrined principle of separation of powers, which prohibits the intrusion of one body of government into a coequal body. He expressed concern that such intrusion would unravel the very foundations of democracy upon which power-sharing is undertaken. He reminded the Body that not too long ago, some Members rallied against President Arroyo for trying to cut the legs of the Senate through Executive Order No. 464 and Proclamation No. 1017.

Senator Gordon stated that while he trusts Senator Pimentel's assurance that the resolution merely expresses the sense of the Senate and does not seek to exculpate Senator Trillanes, the perception is harsher than reality and people may not be able to discern most of the time what the senators are trying to say or do. He pointed out that the Members could be accused of catering to the 12 million who voted for Senator Trillanes. He cautioned against fooling around with the principles of separation of powers and equal protection of laws because, someday, the Members might find themselves similarly situated and claim "exception to the rule."

While he expressed admiration for Senator Trillanes' courage of conviction, he wondered nonetheless where the Senate would be today had the rebellion succeeded. An individual who goes out of the fabric of law which affords him equal protection, he said, is threading on dangerous grounds. He averred that the 12 million who voted for Senator Trillanes took a chance when they

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voted for him, knowing that he might not be able to serve. He stressed that Senator Trillanes is not without recourse as he has his lawyers and he could elevate his case to the Supreme Court and seek redress. He underscored that he would rather trust the courts on the principles of separation of powers and equal protection of the law.

Conceding that it is easier to say yes, Senator Gordon opined nonetheless that the Body should not even be tackling the issue, that the senators should be men of law. He stressed that no one is exempt from the law, be he a soldier or a president.

Finally, Senator Gordon emphasized that his negative vote is a vote of conscience and it is the right thing to do.

By Senator Escudero

Expressing his affirmative vote, Senator Escudero delivered the following statement:

I vote yes. I vote yes because it is our duty here in the Senate to be the true representatives of our people. More specifically, it is our duty here in the Senate to bring the voice and the vote of the people here in this august Chamber. No less than eleven million people said that they wanted to see Senator Trillanes serve as a senator of this Republic. It is but proper for this institution to make known and bring that voice and that vote here in the Senate.

Argument has been raised by some of our colleagues citing separation of powers. But if indeed our function is to bring the voice and the vote of our people here in the Senate, I think the principle of separation of powers can, in fact, be used contrary to their position because if it is indeed our power and function to bring that voice and that vote, the principle cannot be used to silence us here in the Senate.

Walang librong nagsulat na gagamitin mo at pwede mong gamitin ang prinsipyo ng separation of powers para patahimikin ang mga miyembro ng Senado — magsalita, isigaw at sabihin ang kanilang paniniwala at opinion. Nowhere is it written. Neither is there any Supreme Court decision to the effect that the Senate or Congress can be deterred, prevented or silenced using the principle of separation of powers.

Even our Rules provide that a pending case in court does not and will not, in any way,

prevent the Senate from taking it up in any committee or before plenary. Neither should it prevent or deter us at this point in time. It has been said also that the cases presently issued by the Supreme Court are all against the position taken by the Senate. Be that as it may, the Supreme Court has been known on many occasions to have reversed its own decision and this may yet prove to be a trail blazing petition should it reach the Supreme Court. And the Supreme Court may yet have the privilege and opportunity to clarify the law and distinguish this from any previous case that it has ruled upon.

It was also said that there is no precedent here in the Senate with regard to using a sense of the Senate resolution on the subject matter. I was not a member of the Philippine Senate in 1953 when they did not stand up for their colleague. Neither was anyone here present as senator of the Republic in 1953. In fact, I was not yet even born in 1953. That cannot and should not deter this Senate from acting on its own. That the Senate did not do it during the time of Senator Enrile or Senator Honasan when they were incarcerated sometime in the early 1990s and late 1980s, should not also prevent us from doing this insofar as our present colleague here in the Senate is concerned, Sen. Antonio Trillanes.

The President said yesterday that she would rather be right than popular. Sad to say, she is neither right nor popular. As far as the Senate is concerned, I think we should all aspire not only to be right but also to be popular.

The majority who voted in favor of the resolution discharged their duty and function. We brought the voice and the vote of our people here in the Senate. By no stretch of the imagination can any principle of constitutional law be used to prevent that voice and/or that vote from reaching this august hall.

By Senator Revilla

Voting for the resolution, Senator Revilla gave the following explanation:

Abraham Lincoln defined democracy as "a government of the people, by the people, for the people." There is also a Latin maxim, *vox populi, vox Dei*, the voice of the people is the voice of God. These are treasured pillars of democracy.

Nitong nakaraang halalan, nagpahayag po ang 12 milyong Pilipino ng kanilang **AB**

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hangarin. Ito po ang hangarin na kumatawan sa kanila si Senador Trillanes dito sa Senado

If we are to adhere to the principles of democracy, this expression must not go unheeded. *Napakahalaga po na dinggin natin ito. Mas mahalaga pa ito sa anumang konsiderasyong pampulitika. Kaya naman ako po ay nakiusa at nagpahayag ng aking pakikiusa sa resolyong ito na nananawagan na payagan si Senador Trillanes na makiusa dito sa atin sa Senado*

This issue is not about being Administration or opposition. It is about our democracy that we, as a nation, have long struggled for, and it is why I have set aside all my party considerations.

Hindi naman po natin hangad na impluwensyahan ang Hudikatura. Hindi naman po natin nais na mabale-wala ang mga kasong kinakaharap ni Senador Trillanes. Ang nais lamang natin ay magampanan niya ang tungkuling ipinagkatiwala sa kanya ng milyung-milyong mga Pilipino. Ang nais lamang natin ay huwag mabale-wala ang tinig ng taong bayan.

By Senator Pangilinan

Senator Pangilinan explained his affirmative vote, thus:

This Representation voted in favor of the resolution. What is at issue here is whether or not this resolution violates the constitutional doctrine of separation of powers, and whether or not the resolution undermines the independence of the Judiciary. It is submitted that the resolution does not undermine the independence of the Judiciary and does not violate the constitutional doctrine of separation of powers.

This resolution, I would like to think and believe, is, in fact, an exercise by this Chamber of its legislative function. It is a legitimate exercise of legislative power.

If we may go back to the acts of the Senate, perhaps in the last six or eight months, its decisions and actions in terms of other resolutions will show that we have, in fact, expressed the sense of the Senate in matters that were in fact pending before the courts, not because we wanted to influence the outcome of the case, not because we felt we were, in effect, undermining the independence of the judiciary, but because we were exercising the legitimate power of the legislature.

For example, Resolution No. 67, which was passed on April 5, 2006, condemned the raid and exercise of control over print media, the warrantless arrest of several citizens, including a Member of the House of Representatives, and other similar acts carried out by the government pursuant to Proclamation No. 1017 issued by President Arroyo. At that time, various petitions were already pending before the Supreme Court questioning the legality of the proclamation. We were not trying to influence the court. We were not undermining the independence of the Judiciary. We were exercising what we believe to be a legitimate power of the legislature.

Resolution No. 77, which was adopted on March 29, 2006, expressed the sense of the Senate that the signature campaign to introduce changes to the Constitution through barangay assemblies, which was initiated by the Department of the Interior and Local Government, is illegal. We all know that this particular case—the people's initiative petition—likewise was resolved and decided by the Supreme Court. When we passed that resolution, we expressed the sense of the Senate that the signature campaign was illegal; we were not there to undermine the independence of the Judiciary. We were there exercising a legitimate legislative power.

Resolution No. 71 urged the Department of Justice, the Philippine National Police and the Armed Forces of the Philippines to recognize and respect Rep. Crispin Beltran's basic human rights as a political detainee, especially the right to be transferred to a hospital of his choice. At the time we passed this resolution, he was facing rebellion charges filed by the Department of Justice. We were not there to try and undermine the power and independence of the Judiciary and we were not violating the constitutional doctrine of separation of powers. Again, it was a legitimate exercise of the power of the legislature.

Finally, Resolution No. 69 expressed the sense of the Senate that the rights—under the Constitution and existing law—of the Members of the House of Representatives who have been charged with rebellion, pursuant to Proclamation No. 1017, should be upheld, and that Congress must continue to extend protection to them. When we enacted and passed Resolution No. 69, we were exercising the legitimate power of the legislature. And if we are to look at the resolution at hand, Resolution No. 22, it is very clear that we are not here to request special treatment for Senator Trillanes. Whatever it is that the courts decide, it should do so in accordance with the rule of law. *He*

ya

By Senator Madrigal

Senator Madrigal said that except for Senator Recto, she might be the only senator who had a grandfather sitting in the 1953 Congress – she was not yet born that year* – and the last Congress in which her grandfather last served as he lost his reelection bid after that to the Magsaysay senators.

She recalled that during her childhood, stories about Senator Montano of Cavite were repeated year after year, particularly on his reputation akin to a warlord who wielded the gun very easily. Senator Madrigal wondered how the senators of the 1953 Congress could express their sense to help their colleague, Senator Montano, when the circumstances and historical events were completely different. Like her grandfather, she surmised that Senator Montano's colleagues were not totally convinced of his innocence, hence, they remained neutral.

Having heard all the explanations of the yes votes on Senate Resolution No. 22, Senator Madrigal underscored that there were more affirmative votes because the historic point of view outweighed the constitutional logic or legal point of view.

Asserting that the President is the one who undermines the basic legislative duties of a senator who belongs to a branch coequal to the Executive branch, Senator Madrigal wondered if there has ever been an American senator elected while in prison, and if there has even been an American president who took as much liberty with the Constitution as President Arroyo has done.

Senator Madrigal surmised that the historical circumstances in the present times have pushed majority of Senators to sign the resolution, which would not have been necessary in normal times. She stated that she would be happy to see Mrs. Arroyo step down from Malacañang in 2010 when, perhaps, such extraordinary measures would no longer be needed in a more normal democracy.

THIRD ADDITIONAL REFERENCE OF BUSINESS

The Secretary of the Senate read Proposed Senate Resolution No. 38, which the Chair referred to the Committee on Rules, entitled

*As corrected by Senator Madrigal on July 30, 2007

RESOLUTION CONGRATULATING THE IGLESIA NI CRISTO, UNDER THE LEADERSHIP OF KA ERDIE MANALO AND KA EDDIE MANALO, ON THE OCCASION OF THEIR 93RD ANNIVERSARY.

Introduced by Senator Zubiri

PROPOSED SENATE RESOLUTION NO. 36

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 36, entitled

RESOLUTION EXPRESSING THE PRO- FOUND SYMPATHY AND SINCERE CONDOLENCE OF THE SENATE OF THE PHILIPPINES ON THE DEATH OF THE HONORABLE SENATOR LEONARDO B. PEREZ.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

ADOPTION OF PROPOSED SENATE RESOLUTION NO. 36

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 36 was adopted by the Body.

PROPOSED SENATE RESOLUTION NO. 4

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 4, taking into consideration Proposed Senate Resolution No. 37, entitled

RESOLUTION HONORING THE FOUR- TEEN (14) MARINES WHO PERISHED IN THE LINE OF DUTY IN ALBARKA, BASILAN LAST 10 JULY 2007; CON- DEMNING UNDER THE STRONGEST TERMS POSSIBLE THE BARBARIC ACT OF BEHEADING AND/OR MUTILATING THE REMAINS OF TEN (10) OF THEM; AND URGING THE PHILIPPINE GOVERNMENT AND THE LEADERSHIP OF THE MILF TO IDENTIFY AND PUNISH THE PERPETRATORS.

MS

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

**ADOPTION OF PROPOSED
SENATE RESOLUTION NO. 4**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 4, taking into consideration Proposed Senate Resolution No. 37, was adopted by the Body.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:31 p.m.

RESUMPTION OF SESSION

At 5:32 p.m., the session was resumed.

REMARK OF SENATOR PIMENTEL

Senator Pimentel believed that the resolatory clause should not only ask the MILF to identify and punish the perpetrators of the dastardly crime but also urge the government to do the same.

COAUTHORS

Upon motion of Senator Pangilinan, there being no objection, Senators Aquino, Cayetano, Honasan, Lacson, Legarda, Madrigal, Pimentel, Villar and himself were made coauthors of Proposed Senate Resolution No. 4.

PROPOSED SENATE RESOLUTION NO. 25

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 25, entitled

RESOLUTION COMMENDING THE
TWO FILIPINO BOXERS WHO
WON INTERNATIONAL BOXING
FEDERATION (IBF) TITLES.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

**ADOPTION OF PROPOSED
SENATE RESOLUTION NO. 25**

Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 25 was adopted by the Body.

SUSPENSION OF SESSION

Upon motion of Senator Pangilinan, the session was suspended.

It was 5:34 p.m.

RESUMPTION OF SESSION

At 5:35 p.m., the session was resumed.

PROPOSED SENATE RESOLUTION NO. 38

Upon motion of Senator Pangilinan, there being no objection, the Body considered Proposed Senate Resolution No. 38, entitled

RESOLUTION CONGRATULATING
THE IGLESIA NI CRISTO, UNDER
THE LEADERSHIP OF KA ERDIE
MANALO AND KA EDDIE
MANALO, ON THE OCCASION OF
THEIR 93RD ANNIVERSARY.

With the permission of the Body, only the title of the resolution was read without prejudice to the insertion of its full text into the Record of the Senate.

**ADOPTION OF PROPOSED
SENATE RESOLUTION NO. 38**


Upon motion of Senator Pangilinan, there being no objection, Proposed Senate Resolution No. 38 was adopted by the Body.

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 Monday, July 30, 2007.

It was 5:36 p.m.

I hereby certify to the correctness of the foregoing.


EMMA LIRIO-REYES
Secretary of the Senate

Approved on July 30, 2007 