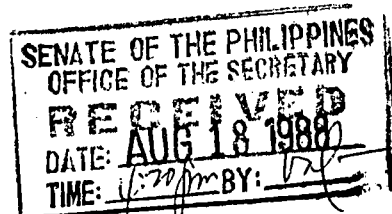


Congress of the Philippines)
First Regular Session
Salonga



S E N A T E

S. No. 733

Introduced by Senators Jovito R. Salonga, Rene
A. V. Saguisag, Alberto G. Romulo, Teofisto T. Guingona,
Jr., Orlando S. Mercado, and Wigberto E. Tanada

AN ACT
DEFINING AND PENALIZING THE CRIME OF
PLUNDER

EXPLANATORY NOTE

One of the characteristics of the post-Marcos era is the heightened public sensitivity to the issues of graft and corruption and accountability of public officials. A manifestation of this is the inclusion of two new provisions bearing on said subjects in the Constitution of 1986. These are Section 7 of Article II (Declaration of Principles & State Policies)

"The state shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption."

and Section 15 of Article XI (Accountability of Public Officers)

"The right of the State to recover properties unlawfully acquired by public officials or employees from them or from their nominees or transferees shall not be barred by prescription, laches or estoppel."

In furtherance of aforesaid constitutional purposes, specifically that the State shall take positive and effective measures against graft and corruption, this bill on plunder is proposed in answer to the need for a penal law that can adequately cope with the nature and magnitude of the corruption of the previous regime. The inadequacy of existing laws is patent. The Government found it necessary to file 39 separate complaints against the various co-conspirators, burdened by normal evidentiary requirements. Likewise, the overall conspiracy had to be cut up into several simple criminal and graft charges as required under existing laws.

Plunder, a term chosen from other equally apt terminologies like kleptocracy and economic treason, punishes the use of high office for personal enrichment, committed thru a series of acts done not in the public eye but in stealth and secrecy over a period of time, that may involve so many persons, here and abroad, and which touch so many states and territorial units. The acts and/or omissions sought to be penalized do not involve simple cases of malversation of public funds, bribery, extortion, theft and graft but constitute the plunder of an entire nation resulting in material damage to the national economy. The above-described crime does not yet exist in Philippine statute books. Thus, the need to come up with a legislation as a safeguard against the possible recurrence of the depravities of the previous regime and as a deterrent to those with similar inclination to succumb to the corrupting influences of power.

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Alfredo G. Romulo

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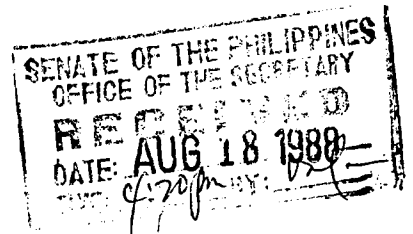
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Senate Archives

REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE
MANILA



FIRST REGULAR SESSION

S. NO. 733

Introduced by Senators Jovito R. Salonga, Rene A. V. Saguisag, Alberto G. Romulo, Teofisto T. Guingona, Jr., Orlando S. Mercado, and Wigberto E. Tañada

AN ACT
DEFINING AND PENALIZING THE CRIME OF PLUNDER

Be it enacted by the Senate and House of Representatives of the Philippines in Congress Assembled:

SECTION 1. Definition of Terms. - As used in the term -

(a) "Public official" means any person holding any public office in the Government of the Republic of the Philippines by virtue of an appointment, election or contract.

(b) "Government" includes the National Government, local government, government-owned or government controlled corporation and all other instrumentalities or agencies of the Republic of the Philippines and their branches.

(c) "Person" includes natural and juridical persons, unless the context indicates otherwise.

(d) "Ill-gotten wealth" means any asset, property, business enterprise or material possession of persons within the purview of Section two hereof, acquired by them directly, or indirectly through dummies, nominees, agents, subordinates and/or business associates by any of the following means or similar schemes:

(1) Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury.

(2) Through the receipt, directly or indirectly, of any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the official concerned;

(3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies, or instrumentalities or government-owned or controlled corporations;

(4) By obtaining, receiving, or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation in any business enterprise or undertaking;

(5) Through the establishment of agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or

(6) By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

SEC. 2. Definition of the Crime and Penalty. -

Any public officer who, by himself or in connivance with other persons, whether members of his family, relatives, business associates, subordinates and others, for the benefit of himself, shall, through a systematic or methodical scheme, or conspiracy consummated by a series of overt or criminal acts, such as bribery, extortion,

malversation of public funds, swindling, falsification of public documents, coercion, theft, frauds and illegal exactions, violations of the Anti-Graft and Corrupt Practices Act (R.A. 3019, as amended) and like offenses, amass, accumulate or acquire ill-gotten wealth as defined in Section one hereof, shall be guilty of the crime of plunder, provided that the total amount is not less than ONE HUNDRED MILLION PESOS (P 100,000,000.00).

Such public officer or persons who schemed, conspired or knowingly benefitted from the aforesaid acts or conspiracy shall be found guilty of the crime of plunder and shall be punished with life imprisonment and perpetual disqualification from public office. Furthermore, the court shall declare any and all ill-gotten wealth so acquired, accumulated or amassed by them escheated or forfeited in favor of the State in an amount equivalent to double the value of the assets illegally accumulated.

SEC. 3. Competent Court. - Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan.

SEC. 4. Rule of Evidence. - For purposes of establishing the crime of plunder, it shall not be necessary to prove each and every criminal act done by the accused in furtherance of the scheme or conspiracy to amass, accumulate or acquire ill-gotten wealth, it being sufficient to establish beyond reasonable doubt a pattern of overt or criminal acts indicative of the overall unlawful scheme or conspiracy.

SEC. 5. Suspension and Loss of Benefits. - Any public officer against whom any criminal prosecution under a valid information under this Act in whatever stage of execution and mode of participation, is pending in court,

shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime, administrative proceedings have been filed against him.

SEC. 6. Prescription of Offenses. - The crime punishable under this act shall be imprescriptible.

SEC. 7. Separability of Provisions. - If any provision of this Act or the application to any person of circumstance is held invalid, the remaining provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

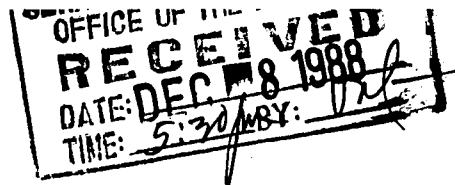
SEC. 8. Scope. - This Act shall not apply to or affect pending prosecutions or proceedings, or those which may be instituted under Executive Order No. 1, issued and promulgated on February 28, 1966.

SEC. 9. Effectivity. - This Act shall take effect after fifteen (15) days from its publication in the Official Gazette and in a newspaper of general circulation.

Approved,



Congress of the Philippines)
:)
Second Regular Session)



SENATE

COMMITTEE REPORT NO. 451

Submitted by the Committee on Constitutional Amendments and
Revision of Codes and Laws on DEC 8 1988, 1988.

Re: Senate Bill No. 733

Recommending its approval with Committee amendments.

SPONSORS: Senators Salonga, Saguisag, Romulo, Guingona,
Mercado and Tañada

MR. PRESIDENT:

The Committee on Constitutional Amendments and Revision
of Codes and Laws to which was referred Senate Bill No. 733,
introduced by Senators Salonga, Saguisag, Romulo, Guingona,
Mercado and Tañada, entitled:

AN ACT
DEFINING AND PENALIZING THE OFFENSE [CRIME]
OF PLUNDER

has considered the same and has the honor to report it back
to the Senate with the recommendation that the bill be
approved with Committee amendments.

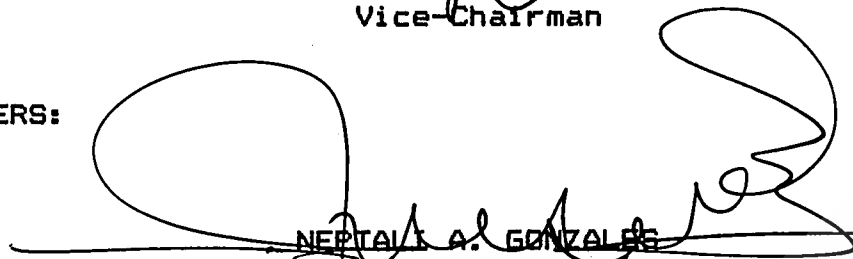
Attached is a copy of the bill with Committee amend-
ments.

Respectfully submitted:


ROBERTO E. TANADA
Chairman


RENE A. SAGUISAG
Vice-Chairman

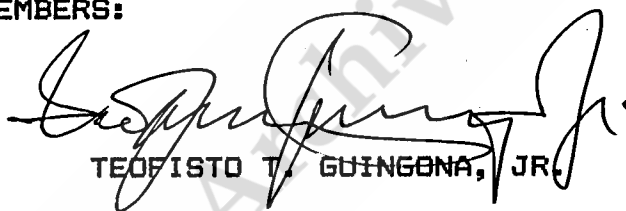
MEMBERS:


NEPTAL A. GONZALES

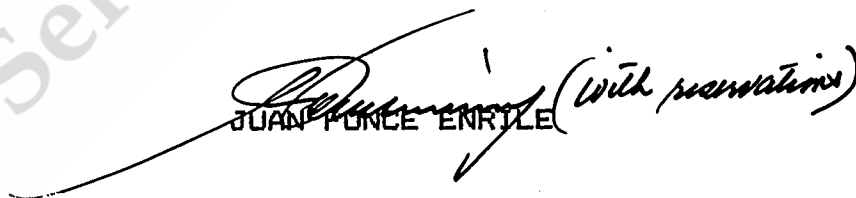

SOTERO H. LAUREL


AGUILINO Q. PIMENTEL, JR.

EX-OFFICIO MEMBERS:


TEOFISTO T. GUINGONA, JR.


ORLANDO S. MERCADO


JUAN PONCE ENRILE (with reservation)



The Honorable
Senate President
M a n i l a