

This is an excerpt from Senate Journal 66 containing the Privilege Speech delivered by Sen. M.A. Madrigal during the 28 February 2006 Session of the Senate.

The Queen of Clubs in the House of Cards

Mr. President:

I rise on a matter of personal and collective privilege. The fabric of our freedoms is being shredded by an executive issuance: Proclamation 1017, which has been aptly characterized as the **third** in an unholy trinity of presidential actions and decisions: the policy of Calibrated, Pre-Emptive Response, Executive Order 464, which arrogates unto the President authority never granted or contemplated by our laws, and Proclamation 1017 which is at the very least, the cornerstone for de facto martial law.

Mrs. Arroyo says she has undertaken all these things, so that she can properly defend the Republic. I must ask, Mr. President, just from whom Mrs. Arroyo thinks it's necessary to defend our Republic.

Let us list down the enemies of the state, according to Mrs. Arroyo.

One enemy is the people. To gather together to exercise the right of free speech and assembly is obnoxious to her. Obviously, because she tends to be the targets of such exercises. Were the country filled with examples of people organizing to march around singing her praises, she would surely proclaim it a triumph of democracy. But they aren't doing that. So, doing what they do, and saying what they say, she believes she can unilaterally turn rights into privileges she can suspend.

Another enemy is the youth. Last Friday, even as she proclaimed everything, both militarily and politically, was under control, she suspended classes. She did so, because students wanted to help commemorate Edsa 1 by doing what the Edsa generation did: exercise their rights. On Monday, after announcing everything was militarily under control, she called off classes, too. Again, the reason was that students might be inclined to make noise in the classroom and in the quadrangles of their schools.

Let us add professors to her list, people like Randy David; let us add the faculty of schools like De la Salle and the Ateneo that set about organizing themselves and even alumni to protest the President's actions. The only thing they're good for, it seems, is for rounding up and subjecting to police harassment.

Mr. President: One of our respected former colleagues, Vicente Paterno, humbly and sincerely accepted an appointment to Mrs. Arroyo's Consultative Commission for Charter Change, but has taken the bold step of publicly disassociating himself from it or its works, including Charter change . The reason? According to him, and I quote, *"I am now fully convinced that Mrs. Arroyo seeks not only to retain her Presidency but to expand her powers through charter change. Article XX, the ConCom transitory provisions, clearly define the strong motivation for Mrs. Arroyo's determined efforts to get chacha ratified."*

Canine behavior is not in his nature; it is not in ours; but since we will not roll over and beg, Mrs. Arroyo wants the Senate euthanized.

Let us add ourselves, then, Mr. President, as well as some of our colleagues in the House. The President suffers from the delusion that the only mandate that counts is her own –however it was achieved, and however questionable it may be. Our mandates don't matter. Our duty to speak up for a national constituency is immaterial and irrelevant to her. Our place in the Constitutional order is a vexing inconvenience. Therefore, we must be harassed, and some of us possibly rounded up and silenced. And all because, Mr. President, we dare speak out our minds, and we dare to do our jobs like independent men and women instead of behaving like sniveling pet Pekingese in her Palace kennel. I must admit, as the press so loves to point out, to spoiling my dogs. But they are dogs, Mr. President, not elected representatives of the people.

And speaking of the press –why, it has zoomed up the charts, so to speak, in the Palace hate-list. Proclamation 1017 and General Order No. 5 both focus on the media as an enemy of the state, to be cowed, controlled, and if necessary, closed down. Everyone in this chamber has experienced being in the media's line of fire, but we know it to be an essential price of democracy. We gladly pay it, day after day; we submit to it, we welcome it; for just as much as the press can sting, it can elevate, it can clarify, it can conquer corruption and end abuses.

The President, on the other hand, lacks this principled dedication to freedom of expression and information. I would think such a dedication is a fundamental requirement for public service. In her thin-skinned insecurity, Mrs. Arroyo obviously disagrees.

During the Japanese Occupation, all officials were assigned minders by the *Kempeitai*, to make sure they didn't get too-independent minded. The media was censored. We did not see such behavior again until the time of Mr. Marcos. None of us, I believe, ever expected to see the return of such efforts at thought-control in our lifetime. **Yet it is back; it is here; it is not just pending, it is being imposed.** GMA and ABS-CBN have soldiers assigned, as the Palace euphemism puts it, to "secure" them. Newspapers are all getting the message loud and clear, that as the invasion of the premises of the Daily Tribune shows, their content is being scrutinized for any instances of lese majeste.

Mr. President, Proclamation 1017 contains two words too lofty for our republican way of life: the words are "**command,**" and "**decree.**" Mrs. Arroyo commanded the troops to enforce her will, and by so doing told them they should be prepared to implement anything she signs: including decrees. My learned colleagues who belong to the legal profession will surely agree, that by no stretch of the

imagination have we given any President the power to issue decrees. I do not think any of my colleagues or our countrymen will also be comfortable with the idea of Presidents "commanding" the people. Order, perhaps, even instruct. But command, never. But prepared to command and ready to decree she is.

Those the gods wish to destroy, they first make mad. The ancient Greeks said this, history has shown it to be true time and again. Mrs. Arroyo denounces a "*Left-Right conspiracy.*" Whether one exists or not, it obviously exists in her mind and that of those who work for her. As a consequence, she has decided to embark on the systematic destruction of every institutional, legal, and ethical impediment to her continued hold on power.

Mr. President, we have on one hand, a chief executive who claims imperial and royal powers for herself, and a senate and a country insisting on the old, widely-accepted democratic definitions of presidential power. She joins the late President Elpidio Quirino in arrogating unto herself powers never granted by Congress. Except that Quirino, to his credit, gave up on insisting that the wartime emergency powers granted President Quezon by the National Assembly were still his, years after the war, and thus the emergency declared by our legislature, had ended. He did so, Mr. President,

because the Supreme Court said he had no right to wield those powers.

Mrs. Arroyo, however, claims powers never granted her or her predecessors by anyone; she invokes the shadiest of executive legal constructions, the concept of “executive privilege.”

But does the concept of executive privilege really exist, and should the President of the Philippines be able to invoke it? Executive privilege as a legal construction is a murky one, since the Constitution does not mention it anywhere. Although Thomas Jefferson set the precedent for invoking this privilege during the trial of Aaron Burr for treason in 1807, no other American president did until modern times.

The United States Supreme Court addressed the question of executive privilege in *United States v. Nixon*, the 1974 landmark case involving the demand by Watergate special prosecutor Leon Jaworski that President Richard Nixon produce audiotaped conversations in connection with criminal charges against members of the Nixon Administration. Nixon in order not to produce any record invoked executive privilege. The Supreme Court recognized that some executive communications might deserve protection and

freedom from public scrutiny. But it did not accept Nixon's argument on the facts of that case. Nixon asserted a generalized need for confidentiality; the Court decided that the larger public interest in obtaining the truth in the context of a criminal prosecution took precedence over a broad invocation of an unlegislated power.

Richard Nixon, the most disgraced of American presidents, just as Quirino in his time was the most disgraced of Philippine chief executives, recognized that even presidential power has its limits. The same cannot be said of our present President. She is a person who recognizes no limits, who respects no borders, whether Constitutional or moral. She is, to borrow a phrase from Claro M. Recto, one of the *"Neroes and Caligulas of the present."* And if she would not be an empress, then she is already behaving like a Queen, a *"little tyrant by the Pasig,"* in the tart estimation of Carmen Guerrero-Nakpil. Petulant, domineering, demanding, perpetually discombobulated at the drop of a hat, scheming, suspicious, jealous, frosty, fearful and vengeful, the closest legal concept to explain the behavior of our chief executive is that she believes she enjoys the so-called **"Royal Prerogatives"** exercised by the Queens of old.

These royal prerogatives, Mr. President, were a series of historic powers officially held by monarchs that have, in reality, been reinterpreted by politicians. In times of crisis, such as war, they give the monarch the right to ask her ministers to form a new government. These prerogatives are invoked to resolve an impasse but not to maintain a monarchy in power. Let us remember, Mr. President that, whilst a monarch is the commander-in-chief, she is not the chief executive.

In the case of the Philippines, we have a Queen for a President, who believes in her political immortality and strength. A case of regal pretensions, Mr. President, compounded by delusions of ruling by Divine Right. In truth, however, she is like the Queen in Alice in Wonderland, stamping her foot, bellowing at her attendants, demanding **“off with his head!”** at every imagined slight: a ludicrous, ridiculous, irresponsible petty tyrant, ruling the roost in what? A house of cards! And while our present chief executive may, in her mind’s eye, picture herself a radiant Gloriana, ruling with Elizabethan goodness, she is in truth, neither glorious nor good. She looks at our nation’s problems, and tells us to eat a *brioche*; then frowns when a hungry, infuriated nation cries it prefers jobs, homes, and rice.

This Senate must resist Mrs. Arroyo. The people are resisting her. The people not only do not like her, they loathe her. Where we and all others have failed, perhaps, is to address the people's desire for a successor who will be as diametrically opposed to her as a swan is to a pig, to be identified and supported by the people. Our people have no champion; and lacking one, while each of us may stand in opposition, must we all fall, one by one, as Mrs. Arroyo exacts her vengeance.

As Pastor Martin Niemöller wrote, in lines that continue to haunt the conscience of the world,

First they came for the Jews

and I did not speak out

because I was not a Jew.

Then they came for the Communists

and I did not speak out

because I was not a Communist.

Then they came for the trade unionists

and I did not speak out

because I was not a trade unionist.

*Then they came for me
and there was no one left
to speak out for me.*

Mr. President, we must speak out. We must lead. Fight. Reshuffle the cards, and to paraphrase Churchill, we must never surrender.

If our country is suffering from an epidemic of unbridled greed, its antidote is an epidemic of sacrifice on the part of those opposed to Mrs. Arroyo. But this is an effort to be engaged in outside our session hall. Our duty, as Senators of a beleaguered republic, is to oppose her unjust and unjustifiable laws, prevent her assuming and exercising the power to rule by decree, and prevent her commanding, instead of serving, our people. As Rizal eloquently counseled posterity: *Donde no hay esclavos no hay tiranos*. Where there are no slaves, there are no tyrants. In our case, there is no Queen, where there are no slaves. Let us resist the efforts of Mrs. Arroyo to shackle our people. **Let us not wait until we must break the chains. Let us smash the foundries where our chains are being forged!**

The combined tyrannies of CPR, of EO 464, and Proclamation 1017 must go. They must go now. They must be banished, never to afflict our body politic ever again!

I thank you.