

RECORD OF THE SENATE

WEDNESDAY, NOVEMBER 17, 1999

OPENING OF THE SESSION

At 3:16 p.m., the Senate President, Hon. Blas F. Ople, called the session to order.

The President. The 38th session of the Second Regular Session of the Eleventh Congress is hereby called to order.

We shall be led in prayer by Sen. John Henry R. Osmeña.

Everybody rose for the prayer.

Senator Drilon. Mr. President, Sen. John Henry R. Osmeña has requested me to read his prayer for today.

Let us bow our heads.

PRAYER

Lord, as we begin this week in the discharge of our constitutional duty to formulate the budget of our government, guide us in what we are doing, show us the way that we may be able to address the needs of our people, especially the part of our population numbering about 70 percent who live in poverty and in rural areas.

Almighty God, we pray that today, and in the days to come, when we invoke Your Almighty presence, You will guide us as we continue with perseverance, optimism, courage, and effort, to discharge our solemn oath to this Republic to do the best for the upliftment and well-being of our people.

Almighty God, with compassion and grace, we pray You guide us and continue to give us light and strength as we, Your legislators, try to find our way towards the goal of best serving our people.

This we ask of You through Christ, our Lord:

Amen.

The President. The Chair thanks Senator Osmeña and Senator Drilon for a moving prayer today.

ROLL CALL

The Secretary will please call the roll.

The Secretary, reading:

- Senator Teresa Aquino-Oreta Present
Senator Robert Z. Barbers Present
Senator Rodolfo G. Biazon Present
Senator Renato L. Compañero Cayetano .. Present
Senator Anna Dominique M.L. Coseteng .. Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present*
Senator Juan M. Flavier Present
Senator Teofisto T. Guingona Jr. Present
Senator Gregorio B. Honasan Present
Senator Robert S. Jaworski Absent ***
Senator Loren B. Legarda-Leviste Present
Senator Ramon B. Magsaysay Jr. Present*
Senator John Henry R. Osmeña **
Senator Sergio R. Osmeña III Present
Senator Aquilino Q. Pimentel Jr. Present
Senator Ramon B. Revilla Present
Senator Raul S. Roco Present
Senator Miriam Defensor Santiago Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad **
The President Present

The President. With 17 senators present, there is a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Drilon. Mr. President, I move that we dispense with the reading of the Journal of yesterday's session, Session No. 37, and consider it approved.

The President. Is there any objection? [Silence] There being none, the motion is approved.

ACKNOWLEDGEMENT OF THE OFFICIAL VISIT OF MEMBERS OF NPC INTERIOR AND JUDICIAL AFFAIRS COMMITTEE DELEGATION, PEOPLE'S REPUBLIC OF CHINA

Senator Drilon. Mr. President, before we proceed with the Reference of Business, I wish to acknowledge for the record the presence in the Session Hall of the delegation from the National People's Congress, the People's Republic of China.

* Arrived after the roll call
** On official mission
*** On account of illness

budget of the Health department to support these hospitals. But in those cases where some specialized government hospitals could not be supported, then maybe we can privatize them and then impose by law, as a condition of privatization, that 10% of all bed capacities of these hospitals must be devoted to socialized health.

Senator Pimentel. Incidentally, Mr. President, may I just mention for the record. When the Local Government Code was enacted, there was no desire to devolve all hospitals to the local government units concerned.

For example, in a given province, there might be a provincial hospital and there might be any number of district hospitals which congressmen in various places have created but which did not provide for medicines, doctors, or equipment to be placed in those hospitals, leaving the local government units concerned to be responsible for the...

Senator Enrile. And these hospitals do not have the money for that.

Senator Pimentel. And they do not have the money to do that.

So when we were discussing the Local Government Code, there was really no intention to devolve these hospitals because these were not in the nature of local hospitals.

The provincial hospital could be considered a local hospital. The city hospital could be considered a local hospital. That is the reason. If the gentleman will notice, in the wordings of the devolution on hospitals, only the provinces and the cities, in effect, are mentioned as the recipients of the devolution of these medical facilities of the government, because only the province would have the capacity to run at least one provincial hospital and the city to run at least one city hospital. But if we saddle a province with 10 hospitals just because the name "hospital" is there, definitely it will run out of resources to run it.

Senator Enrile. We will support that proposition of the distinguished gentleman from Cagayan de Oro, Mr. President.

Senator Pimentel. Thank you, Mr. President. May I reserve to continue my interpellation on this next week.

Senator Enrile. Anytime, Mr. President.

SUSPENSION OF CONSIDERATION OF S. NO. 1582

Senator Drilon. Mr. President, I move that we suspend consideration of Senate Bill No. 1582.

The President. Is there any objection to the motion? *[Silence]* There being none, the motion is approved.

ACKNOWLEDGMENT OF THE OFFICIAL VISIT OF THE SANGGUNIANG PANLALAWIGAN DELEGATION FROM MARINDUQUE LED BY VICE GOVERNOR TEODORICO REJANO

Senator Drilon. Mr. President, before we proceed to the next item in our agenda, I wish to acknowledge the presence in the Hall of the Sangguniang Panlalawigan of the Province of Marinduque led by Vice Governor Teodorico Rejano.

The President. The Senate extends its warm welcome to the delegation from Marinduque.

BILL ON SECOND READING S. No. 1519--General Banking Law of 1999 (Continuation)

Senator Drilon. Mr. President, I move that we resume consideration of Senate Bill No. 1519.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1519 is now in order.

Senator Drilon. We are in the period of committee amendments. May I ask the Chair to recognize the Chairman of the Committee on Banks, Sen. Raul S. Roco.

The President. Sen. Raul S. Roco is recognized.

Senator Roco. Thank you, Mr. President.

Yesterday, pursuant to the permission granted by this Chamber, we worked on the proposed committee amendments by engrossing the version of the bill. So this is the update now as of November 16, 1999.

Mr. President, so that our colleagues will understand, the bracketed portions are proposed to be deleted, and all the capitalized portions are supposed to be additions. The underscored or the darker prints just indicate that they are new provisions not otherwise found in that form under the old law.

Mr. President, yesterday we ended with page 7. May we now proceed to page 9.

On page 9, Section 21, line 20—this is a typographical error but I guess we have to act on it—the term "be", the second word after "shall" should be deleted for grammatical reasons, Mr. President. Just so the Secretariat will have an authority to modify.

The President. Is that a motion submitted to the Body?

Senator Roco. Yes, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

**MOTION OF SENATOR ROCO
(Authorizing the Committee To Work on
Grammatical Errors in the Bill)**

Senator Roco. Mr. President, may I submit an omnibus motion. We just authorize the committee to work out for styling purposes the grammatical errors, coincidences, whether the verb should have an "s" or should be in the past tense.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Roco. Thank you, Mr. President. In which case, we now proceed to page 10, lines 11 and 12.

There is a proposed new paragraph. They are all in caps. During the interpellations, we did agree with Senator Santiago to choose either combined "capital accounts" or "net worth". We chose "net worth" because it is shorter. In any event, it seems better.

So, may we ask that a new paragraph be inserted to read as follows:

AS USED IN THIS ACT, "NET WORTH" SHALL MEAN THE TOTAL OF THE UNIMPAIRED PAID-IN CAPITAL INCLUDING PAID-IN SURPLUS, RETAINED EARNINGS AND UNDIVIDED PROFIT, NET OF VALUATION RESERVES AND OTHER ADJUSTMENTS AS MAY BE REQUIRED BY THE BANGKO SENTRAL.

This could be found actually under Section 33. But by agreement, we shall now put it under page 10.

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Mr. President, with the permission of the sponsor, may we go back to page 3?

Senator Roco. Mr. President, we are only in the committee amendments. The individual amendments will be after we clean up the draft, and then we can go back to page 1 if our good friend from Cagayan ...

Senator Enrile. All right.

Senator Roco. Thank you, Mr. President. May we have an approval?

The President. Is there any objection? *[Silence]* There being none, the amendment—capitalized sentences on page 10 corresponding to 11a up to 11e, ending with the term "BANGKO SENTRAL"—approved.

Senator Roco. Thank you, Mr. President.

As a consequence of that amendment, there will be styling modifications on page 13, lines 2-3; page 13, lines 5-9; and still on page 13, lines 12, 14-15, which still use the phrase "combined capital accounts." As a consequence of that amendment, all references to the phrase "combined capital accounts" will be deleted and in lieu thereof insert the phrase NET WORTH. The remaining term is NET WORTH.

The President. Does the gentleman want to authorize the committee to do the changes as far as the committee amendment is concerned?

Senator Roco. Yes, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Roco. We now come to page 17, line 29, Mr. President.

There is a bracketed provision which says, "Unless otherwise provided in this law,". We thought we will just refer the definition of "related interests" to the Monetary Board. So we propose a deletion of that phrase on line 29, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. Mr. President, just a point of inquiry to the sponsor.

There are portions here which are in bold letters. Are these committee amendments which must be formally introduced? Or are these amendments which were already introduced in the committee report?

Senator Roco. Those are part of the substitute bill, Mr. President. That is the text we have been working on that was marked—I think “March 1999.” Yesterday, we asked authority to engross the old version. Only the bracketed and capitalized ones are the proposed amendments. When we get to the individual amendments, we will go back to page 1, and everything then becomes subject to individual amendment and scrutiny.

Senator Drilon. Thank you, Mr. President.

Senator Roco. Thank you.

So, may we have an approval for the deletion, Mr. President?

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Roco. On page 18, lines 6 and 8, the reference to “sixty percent (60%)” is proposed to be modified so that it becomes SEVENTY PERCENT (70%). That applies to lines 6 and 8. This was a proposal by the Minority Leader and Senator Cayetano and accepted by the committee.

The President. Is there any objection? Senator Guingona is recognized.

Senator Guingona. Mr. President, just to make a correction. We did not ask for the increase of the credit accommodations based on a 70% increase. I think it was Senator Cayetano.

Senator Roco. Yes, it was Senator Cayetano. But it was touched on in the interpellation of April 21 and September 14.

Senator Guingona. Yes, Mr. President, we wanted a more liberal...

Senator Roco. I see. Is the Minority Leader objecting to increasing the ceiling for...

Senator Guingona. Yes, Mr. President.

Senator Roco. Does the gentleman not want it 70%?

Senator Guingona. We do not want it, Mr. President. As a matter of fact, the distinguished sponsor pointed out good ideas or viable projects other than those based on collaterals.

Senator Roco. Then we withdraw the proposed amendment, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is withdrawn. Next amendment.

Senator Roco. Mr. President, on page 18, lines 12 to 19, amend Section 37 to read as follows:

“Except as the Monetary Board may otherwise prescribe, loans and other credit accommodations on security of chattels AND INTANGIBLE PROPERTIES, SUCH AS, BUT NOT LIMITED TO, PATENTS, TRADEMARKS, TRADE NAMES, AND COPYRIGHTS...” May we ask that these additions be allowed?

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Roco. As a consequence of that, Mr. President, on line 18, the phrase “AND INTANGIBLE PROPERTIES” will have to be included to cover the enumeration. May we ask that this be approved.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Roco. On page 20, line 2, these are just sections, which will be covered by the prior authority already granted to the committee to make the enumerations, the numbers, and the sequences conform to the rest of the text.

The President. That is covered by the previous motion.

Senator Roco. Yes, Mr. President. On page 21, line 13, the word “may” is proposed to be changed with SHALL. Because up to now, although there has been a law, it has not been apparently acted on by the Monetary Board. May we ask that this be approved.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Roco. On page 22, from line 8 up to line 10, Section 46 is proposed to be modified so that on line 8, we delete the terms “equivalent to the full amount of the outstanding debt or obligation due to the creditor bank plus the expenses of the foreclosure”. In lieu thereof, we add the phrase IN AN AMOUNT FIXED BY THE COURT CONDITIONED THAT HE WILL PAY ALL THE DAMAGES WHICH THE BANK MAY SUFFER BY THE ENJOINING OR THE RESTRAINT OF THE FORECLOSURE PROCEEDING.

This phraseology is made to conform to the *Rules of Court*, Mr. President. I personally find it more awkward but it conforms now to the *Rules of Court*. May I ask that it be approved.

The President. Is there any objection to this committee

amendment? *[Silence]* There being none, the same is approved.

Senator Roco. Thank you, Mr. President.

On page 25, may I begin first with lines 14 to 17. It is not reflected here, Mr. President.

The phrase "Furnish false, or make willful misrepresentation of, material facts for the purpose of obtaining..." should be rephrased so that it will read: FURNISH FALSE, OR MAKE MISREPRESENTATION OR SUPPRESSION OF MATERIAL FACTS. It is not reflected here, Mr. President. So may we have that modification adopted.

The President. Is there any objection to that committee amendment? *[Silence]* There being none, the same is approved.

Senator Roco. We now come to lines 30A and 30B of the same page 25, at the bottom. To make it consistent, we ask that the capitalized sentence should read as follows: THE MAKING OF FALSE REPORTS OR MISREPRESENTATION OR SUPPRESSION OF MATERIAL FACTS BY PERSONNEL OF THE BANGKO SENTRAL SHALL CONSTITUTE FRAUD AND SHALL BE SUBJECT TO THE ADMINISTRATIVE AND CRIMINAL SANCTIONS PROVIDED UNDER THE BANGKO SENTRAL LAW.

The President. Is there any objection to this committee amendment? *[Silence]* There being none, the same is approved.

Senator Roco. Just for purposes of those who may be debating this later on in court, we are introducing the concept also in the Securities Act that when one suppresses a material fact—because the absence of that material fact can constitute fraud—whether it was done willfully or not, because for professionals, suppressing a fact is equivalent to a willful act, both bank and personnel shall be covered by the same standards, Mr. President.

The President. We are on what page now?

Senator Roco. We are now on the same page, Mr. President. Again, it is not reflected here but it is very brief. We propose an additional SECTION 53.4 which will read very briefly as follows:

CONSISTENT WITH THE PROVISIONS OF REPUBLIC ACT NUMBERED 1405 (THE BANK SECRECY LAW), NO BANK SHALL EMPLOY CASUAL OR NONREGULAR PERSONNEL IN THE CONDUCT OF ITS BUSINESS INVOLVING BANK DEPOSITS AND INVESTMENTS IN BONDS ISSUED BY THE GOVERNMENT OF THE PHILIPPINES, ITS POLITICAL... INVOLVING BANK DEPOSITS

AND/OR INVESTMENTS IN BONDS ISSUED BY THE GOVERNMENT...

SUSPENSION OF SESSION

I move that we suspend the session for one minute, Mr. President.

The President. The session is suspended for one minute, if there is no objection. *[There was none.]*

It was 5:44 p.m.

RESUMPTION OF SESSION

At 5:46 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco may proceed.

COMMITTEE AMENDMENTS

Senator Roco. Mr. President, the full amendment is more brief. It will say in SEC. 53.4:

CONSISTENT WITH THE PROVISIONS OF REPUBLIC ACT NO. 1405 (THE BANK SECRECY LAW) NO BANKS SHALL EMPLOY CASUAL OR NONREGULAR PERSONNEL IN THE CONDUCT OF ITS BUSINESS INVOLVING BANK DEPOSITS.

So that there is no negative pregnant, as the lawyers will take it. Because the way it is proposed here, it can be misinterpreted to mean that this will refer only to government-issued deposits. So this is to make it very clear, Mr. President.

The reason for this is that the committee received a number of calls that because of the casualization, which is, in any event a bad social policy, banks, in trying to save money—they should save money but not at the expense of social policy—employ many people for five months and then retire them. It may make business sense for the managers. But the loyalty and fidelity to keep the secret of the bank are lost. Every five months they are replaced so sometimes out of sheer spite, they talk about what they discover in terms of bank secrets. And so we thought, Mr. President, this should be added to the obligations of banks.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, just for clarification.

So therefore does this prohibit casuals from employment?

Senator Roco. Yes, the casualization. Actually, in the larger sense, in the labor law, this should be followed as well. But here there is a direct prejudice for those who believe that the bank secrecy should be kept.

Senator Guingona. Would there be any trial period as a prelude to permanent employment?

Senator Roco. I think under the present law, after the probation period or if they are casuals, after six months, they will have to make them permanent.

Senator Guingona. Yes, that is as far as casuals are concerned. But would this proposed amendment now remove totally the probation or trial period?

Senator Roco. No, no. The normal probation as allowed by law and its practice and from what I understand—it never exceeds six months—will still be there.

Senator Guingona. So they will just be termed as “probationary”?

Senator Roco. If the distinguished Minority Leader wants to add also the term “casuals” or “lengthy probationary” or “nonregular personnel”, if that will improve the sense, then we will so accept that proposed amendment to the committee amendment, Mr. President.

Senator Guingona. Yes, the intent is not to remove cases for probationary.

Senator Roco. Yes, Mr. President. So, subject to style, if we can say, NO BANK SHALL EMPLOY CASUAL OR NONREGULAR OR TOO LENGTHY PROBATIONARY PERSONNEL. Subject to style, may we have that approved, Mr. President?

The President. Is there any objection to this committee amendment as now clarified? *[Silence]* There being none, the amendment is approved.

Senator Roco. Thank you, Mr. President.

We will now go to page 30. There is an error in the entry. The brackets actually on lines 12 and 14 should be removed. That phrase should not be bracketed. There is no proposal to have that deleted.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Roco. On page 32, there is a typographical error.

That is covered by a prior authority, Mr. President.

On page 33...

The President. In what line?

Senator Roco. In line 22, page 32. It is a typographical error. The word “[That]” should not be there.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Roco. Page 33, line 17. Changing of numbers is covered by prior authority graciously granted to the committee. We just change “Section 36” to Section 33, which is the correct method, Mr. President.

We have one reservation which we wish to discuss further with the Technical Working Group—the nonrisk assets. This was raised and discussed with the Majority Leader.

So, may we ask that that be taken up because it is computing what is an encumbered deposit as against... So it is a very technical matter. May we ask that we reserve that to be able to introduce that still as a committee amendment, without prejudice to proceeding already to the individual amendments, if the Majority Leader desires to close now the period of committee amendments. Just that reservation, Mr. President.

The President. May we know the opinion of the Majority Leader?

Senator Drilon. Mr. President, for purposes of an orderly procedure, we can already close the period of committee amendments. We prepare a new draft indicating what the amendments are in the present law and the amendments introduced by the committee. We use the draft as the basis for the period of individual amendments.

Senator Roco. Yes, Mr. President.

The President. On that understanding, does the Chair take it that the Chamber approves the amendment of the committee?

Senator Drilon. Yes, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Drilon. Mr. President, I move that we close the period of committee amendments.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Drilon. I move that we suspend...

Senator Roco. Before that, Mr. President, may we then ask permission and authority to direct the Secretariat to now come up with the November 17 draft, together with the approved committee amendments. All of them now can be subject to individual amendments.

Senator Drilon. That is correct, Mr. President.

The President. The Secretariat is so directed.

SUSPENSION OF CONSIDERATION
OF S. NO. 1519

Senator Drilon. I now move that we suspend consideration of Senate Bill No. 1519.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Roco. Thank you, Mr. President.

SUSPENSION OF SESSION

Senator Drilon. I move that we suspend the session for a few minutes, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for a few minutes.

It was 5:53 p.m.

RESUMPTION OF SESSION

At 5:55 p.m., the session was resumed.

The President. The session is resumed. The Majority Leader is recognized.

Senator Drilon. Mr. President, there is an Additional Reference of Business. I move that the Secretary read the same.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

The Secretary will please read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 616, entitled

RESOLUTION URGING THE COMMITTEES ON ENERGY; TRADE AND COMMERCE AND OTHER APPROPRIATE COMMITTEE/S TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ANENT THE REPORTED UNSCRUPULOUS TRANSACTIONS ENTERED INTO BY A NUMBER OF ELECTRIC COOPERATIVES WITH THE NATIONAL ELECTRIFICATION ADMINISTRATION RESULTING TO UNJUSTIFIED HIGH RATES OF POWER AND INEFFICIENCY OF ELECTRICITY SUPPLY TO THE DETRIMENT OF THE FILIPINO CONSUMERS AND USERS, WITH THE END IN VIEW OF FORMULATING REMEDIAL MEASURES TO ADDRESS THE SITUATION

Introduced by Senator Magsaysay Jr.

The President. Referred to the Committees on Accountability of Public Officers and Investigations; and Energy

The Secretary. Proposed Senate Resolution No. 617, entitled

RESOLUTION EXPRESSING THE SENATE'S DEEP CONDOLENCES TO THE BEREAVED FAMILY OF THE LATE MAYOR ROLAND SERING OF SURIGAO CITY

Introduced by Senator Barbers

The President. Referred to the Committee on Rules

The Secretary. Proposed Senate Resolution No. 618, entitled

RESOLUTION URGING THE SENATE COMMITTEES ON SCIENCE AND TECHNOLOGY; TRADE AND COMMERCE, AND OTHER APPROPRIATE COMMITTEE/S TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ANENT THE EFFECTS OF THE REPORTED SALE OF DEFECTIVE COMPUTER PRODUCTS IN THE NATIONAL