

RA NO. 8552

DOMESTIC ADOPTION OF FILIPINO CHILDREN

(SBN 1523/HBN 10378)

10TH CP

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REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE

Record of the Senate

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RECORD OF THE SENATE

THURSDAY, FEBRUARY 5, 1998

OPENING OF THE SESSION

At 3:20 p.m., the Senate President, Hon. Neptali A. Gonzales, called the session to order.

The President. The 57th session of the Third Regular Session of the Tenth Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Ernesto F. Herrera.

PRAYER

Senator Herrera.

Almighty God, our Father:

We thank You for bestowing on us the rare gift of serving Your people. We now humbly stand in Your presence to seek Your blessings that we may finish the tasks that we, in our light, believe must be done to serve Your people well.

The distractions are many, not only from the world, but from within ourselves—our ambitions, our selfishness, our fears and worries. But amid all the din, we trust O, Lord, that You will let us find Your peace. We praise You. We honor You.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

- Senator Heherson T. Alvarez Present
Senator Edgardo J. Angara Present
Senator Anna Dominique M.L. Coseteng Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present
Senator Marcelo B. Fernan Present
Senator Juan M. Flavier Present
Senator Ernesto F. Herrera Present
Senator Gregorio B. Honasan Present
Senator Gloria M. Macapagal Present
Senator Ernesto M. Maceda Present
Senator Ramon B. Magsaysay Jr. Present*
Senator Orlando S. Mercado Present*

- Senator Blas F. Ople Present*
Senator Sergio R. Osmeña III Absent
Senator Ramon B. Revilla Present
Senator Raul S. Roco Absent
Senator Alberto G. Romulo Present
Senator Miriam Defensor Santiago Present
Senator Leticia R. Shahani Present*
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
Senator Freddie N. Webb Present*
The President Present

The President. With 17 senators present, the Chair declares a quorum.

ACKNOWLEDGMENT OF GUESTS

Before the Majority Leader proceeds, I wish to inform our colleagues in this Body that we are honored today with the visit of two very important persons. They are Dr. Antonio Q. Chan, a native born Filipino from Guinyangan, Quezon, and a graduate of the University of Sto. Tomas. At an early age, he migrated to the United States and is now a clinical professor at the Stanford University Hospital and the owner/proprietor of the Chanwell Clinics in Mountain View, San Jose and Fremont, California.

He is a renowned cardiologist and he has offered to see senators and Senate officials who may desire to have heart examination. He will be available in the Office of the Senate President tomorrow, from 8:30 a.m. to 12:00 noon. The invitation is for all. If everybody can join us earlier, everybody is invited to a breakfast.

The other is his business associate and a personal friend, Mr. Ben Menor.

SUSPENSION OF SESSION

To enable the members of this Chamber to greet our visitors, the session is suspended, if there is no objection. [There was none.]

It was 3:24 p.m.

RESUMPTION OF SESSION

At 3:25 p.m., the session was resumed.

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

* Arrived after the roll call

Because it is now being discussed, Mr. President, I would like to withdraw my opposition to discussion of local bills, considering that our intent was merely to bring it to the floor.

Thank you very much.

Senator Romulo. Mr. President.

The President. The Assistant Majority Leader, Senator Romulo, is recognized.

Senator Romulo. Will the distinguished senator from Quezon City and Leyte yield for some questions?

Senator Mercado. Gladly, Mr. President.

Senator Romulo. Mr. President, is the version that is in the House the same version that the Senate has, and to which the two Houses have agreed?

Senator Mercado. Yes, Mr. President. It is the same version that has been called and being defended by the Chairperson of the Committee on Environment.

Senator Romulo. The Chair of our panel, Senator Mercado, is in complete accord with the version of the Bicameral Conference Committee that is now being discussed in the House.

Senator Mercado. Yes, that same Bicameral Conference Committee Report includes a ban on the incinerators. It is what we have approved in the Bicameral Conference Committee.

Senator Romulo. Have we approved the Bicameral Conference Committee Report on the part of the Senate?

Senator Mercado. Yes, Mr. President. We have long approved the Bicameral Conference Committee Report. What is now lacking—to be able to come up with the enrolled bill—is the approval or the ratification of the Bicameral Conference Committee Report by the House. So, we have done our share already.

Senator Romulo. At any rate, Mr. President, as the Minority Leader was suggesting, we devote up to seven o'clock in the evening to the national bills, to which we have agreed. Therefore, hopefully by that time, the Bicameral Conference Committee Report on the Clean Air Act would have been ratified by the House.

Senator Mercado. We are praying, Mr. President, just as hard as the Assistant Majority Leader.

Senator Romulo. That is exactly what we are doing, Mr. President. At that time, I would join my colleague from

Quezon City in moving that we consider all the local bills of the House, provided that it has ratified the Clean Air Act and that our Secretary is informed that it has done so.

Senator Mercado. We do not know how the vote will go, Mr. President; it is beyond our control. But the good thing about it is that they are discussing it, and a vote could be taken. That, for me, is sufficient.

Senator Romulo. At any rate, Mr. President, we have up to seven o'clock in the evening to ascertain whether the vote is in our favor or not. Thank you, Mr. President.

The President. The Majority Leader is recognized.

BILL ON SECOND READING

S. No. 1523—The Domestic Adoption Act of 1998

Senator Tatad. Mr. President, I move that we consider Senate Bill No. 1523 as reported out under Committee Report No. 286.

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

Consideration of Senate Bill No. 1523 is now in order. With the permission of the Body, the Secretary will read only the title of the bill, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1523, entitled

AN ACT ESTABLISHING THE RULES TO GOVERN THE ADOPTION OF FILIPINO CHILDREN IN THE PHILIPPINES

The following is the whole text of the bill:

Senate Bill No. 1523

AN ACT ESTABLISHING THE RULES TO GOVERN THE ADOPTION OF FILIPINO CHILDREN IN THE PHILIPPINES

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

ARTICLE I GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the "Domestic Adoption Act of 1996."

SEC. 2. *Declaration of Policy.* - It is hereby the policy of the State:

- (1) To exert all efforts to ensure that each child remains under the care and custody of his or her parents. Only when such efforts prove insufficient and no appropriate placement or adoption within the child's extended family is available shall adoption by an unrelated person be considered;
- (2) To ensure that the best interest of the child shall be the paramount consideration in all adoption procedures;
- (3) To provide every neglected, orphaned, surrendered or abandoned child with a family that will provide such child with love and care as well as opportunities for growth and development. Towards this end, efforts shall be exerted to promote domestic adoption and to place the child with an adoptive family or parent in the Philippines;
- (4) To conduct public education to promote a positive environment for adoption;
- (5) To ensure that sufficient capacity exists within government and private sector agencies to handle adoption inquiries, process domestic adoption applications and offer adoption-related services, including parent preparation and post adoption education and counselling; and
- (6) To consider inter-country adoption only as a last resort, after all possibilities for the domestic adoption of the child have been exhausted.

SEC. 3. *Definition of Terms.* - As used in this Act, the term:

- (1) "Child" refers to a person below eighteen (18) years of age;
- (2) "A Child Legally Available for Adoption" refers to a child who has been voluntarily or involuntarily committed to the Department of Social Welfare and Development in accordance with the provisions of the Child and Youth Welfare Code (PD No. 603);
- (3) "Resident Alien" refers to a person residing legally in the Philippines, including an alien who is legally permitted to work or engage in business in the Philippines, a member of the diplomatic corps and

staff of international organizations based in the Philippines;

- (4) "Department" refers to the Department of Social Welfare and Development;
- (5) "Child Placement Agency" refers to an agency duly licensed and accredited by the Department of Social Welfare and Development to provide comprehensive child placement services including receiving applications for adoption, evaluating the prospective adoptive parents and preparing the adoption home study;
- (6) "Child Caring Agency" refers to an agency duly licensed and accredited by the department that provides twenty-four (24) hour resident group service for the physical, mental, social and spiritual well-being of nine (9) or more mentally-gifted, dependent, abandoned, neglected, handicapped or disturbed children or youth offenders;
- (7) "Pre-Adoption Placement Authority" refers to the document issued by the department authorizing the placement of a child with a prospective parent for a given period preparatory to adoption; and
- (8) "Simulation of Birth" refers to the pretension that a child was born to a woman who is not the child's biological mother and the registration of the child in the registry of births as such.

ARTICLE II BIOLOGICAL PARENTS

SEC. 4. *Counselling Services.* - The services of licensed social workers shall be provided to biological parents contemplating the relinquishment of their child for adoption. Counselling should be provided to the biological parents, if possible, before and after the birth of the child, to assist them in considering the alternatives for the child's future and the implications of each alternative. No binding commitment to an adoption plan shall be permitted before the birth of the child. A period of six (6) months shall be allowed for the biological parents to reconsider any decision to relinquish a child for adoption before the decision become irrevocable. Counselling and rehabilitation services should also be offered to the biological parents after they have relinquished the child for adoption.

SEC. 5. *Hurried Decisions.* - In all proceedings for

adoption, steps should be taken BY THE DEPARTMENT, BY THE DULY LICENSED AND ACCREDITED CHILD CARING AGENCY AND by the court to prevent the BIOLOGICAL [natural] parents from making hurried decisions caused by strain or anxiety to give up the child, and to ascertain that all measures to strengthen the family have been exhausted and that any prolonged stay of the child WITH THE BIOLOGICAL PARENTS [in his own home] will be inimical to the CHILD'S [his] welfare and SAFETY [interest].

SEC. 6. *Unknown Parents.* - If the biological parents are not known, the department, or the duly licensed and Accredited Child Caring Agency which has custody of the child, should register the child as a foundling. Thereafter, the child may be the subject of court proceedings where he or she may be declared abandoned or neglected and in the legal custody of the department.

ARTICLE III ELIGIBILITY AND PROCEDURE

SEC. 7. *Who May Adopt.* - A person of age and in possession of full civil capacity and legal rights may adopt, provided he OR SHE is in a position to support and care for his OR HER children, legitimate or illegitimate, in keeping with the means of the family.

In addition, the adopter must be at least sixteen (16) years older than the person to be adopted, unless the adopted is the BIOLOGICAL parent [by nature] of the adopted, or is the spouse of the legitimate parent of the person to be adopted.

Husband and wife must jointly adopt, except in the following cases:

- (1) When one spouse seeks to adopt his OR HER own illegitimate child; or
- (2) When one spouse seeks to adopt the legitimate child of the other; or
- (3) WHEN THE SOUSES ARE LEGALLY SEPARATED FROM EACH OTHER.

In case husband and wife jointly adopt or one spouse adopts the legitimate child of the other, joint parental authority shall be exercised by the spouses [in accordance with this Code].

SEC. 8. *Who May Be Adopted.* - Only minors may be adopted, except in cases where the adoption of a person of majority age is allowed UNDER THIS ACT [in this Title].

The following may not be adopted:

- (1) A person of legal age, unless he or she is a BIOLOGICAL child [by nature] of the adopter or his or her spouse, or, prior to the adoption, said person HAS [had] been consistently considered and treated by the adopter as his or her own child during minority;
- (2) An alien with whose government the Republic of the Philippines has no diplomatic relations; and
- (3) A person who has already been adopted unless such adoption has been previously [revoked or] rescinded OR UNLESS HIS OR HER ADOPTIVE PARENTS HAVE ALREADY DIED.

SEC. 9. *Who May Not Adopt.* - The following persons may not adopt:

- (1) The guardian with respect to the ward prior to the approval of the final accounts rendered upon the termination of their guardianship relation;
- (2) Any person who has been convicted of a crime PUNISHABLE BY IMPRISONMENT OF SIX (6) YEARS AND ONE (1) DAY OR HIGHER [involving moral turpitude];
- (3) An alien, except:

(a) A former Filipino citizen who seeks to adopt a relative by consanguinity;

(b) One who seeks to adopt the legitimate child OR CHILDREN of his or her Filipino spouse; [or]

(c) One who is married to a Filipino citizen and seeks to adopt jointly with his or her spouse a relative by consanguinity of the latter; or

(d) A RESIDENT ALIEN WHO HAS BEEN LIVING IN THE PHILIPPINES FOR AT LEAST THREE (3) YEARS PRIOR TO THE FILING OF THE APPLICATION FOR ADOPTION AND MAINTAINS SUCH RESIDENCE UNTIL AND ADOPTION DECREE IS ENTERED.

THE ALIEN MUST BE ELIGIBLE TO ADOPT UNDER HIS OR HER NATIONAL LAW, PROVIDED THAT THE COUNTRY OF WHICH SUCH ALIEN IS A NATIONAL MAINTAINS DIPLOMATIC RELATIONS WITH THE PHILIPPINES.

AN ALIEN SEEKING TO ADOPT THROUGH THE DOMESTIC ADOPTION PROGRAM SHALL BE REQUIRED TO SUBMIT A CERTIFICATION ISSUED BY THE ALIEN'S DIPLOMATIC OR CONSULAR OFFICE OF HIS OR HER LEGAL CAPACITY TO ADOPT AND OF THE ABSENCE OF ANY LEGAL IMPEDIMENT OR VIOLATION OF PUBLIC POLICY THAT WOULD BAR RECOGNITION BY THE ALIEN'S NATIONAL LAW OF THE PHILIPPINE DECREE OF ADOPTION. SUCH ALIEN MAY ALSO BE SUBJECT TO ADDITIONAL DOCUMENTARY REQUIREMENTS BY THE DEPARTMENT IN ORDER TO ASCERTAIN THAT THE ALIEN POSSESSES ALL THE QUALIFICATIONS AND NONE OF THE DISQUALIFICATIONS OF AN ADOPTIVE PARENT. ALIENS DISQUALIFIED TO ADOPT UNDER SECTION 9(3D) ABOVE MAY ADOPT FILIPINO CHILDREN IN ACCORDANCE WITH REPUBLIC ACT NO. 8043.

SEC. 10. *Child Placement Agencies.* - Only agencies which have been duly licensed and accredited by the department to accept and process applications for adoption, conduct the adoption home study and provide other child placement-related services are authorized to render such services. The department is empowered to determine a reasonable schedule of fees and charges that may be exacted by duly licensed and accredited child placement agencies in connection with the application for adoption.

SEC. 11. *Case Study.* - No petition for adoption shall be granted unless the Department [of Social Welfare] OR CHILD PLACEMENT AGENCY DULY LICENSED AND ACCREDITED BY THE DEPARTMENT has made a case study of the child to be adopted, his BIOLOGICAL [natural] parents, as well as the prospective adopting parents, and has submitted its report and recommendations on the matter to the court hearing such petition.

AT THE TIME OF PREPARATION OF THE CHILD'S CASE STUDY, THE CONCERNED SOCIAL WORKER SHALL CONFIRM WITH THE

CIVIL REGISTRY THE REAL IDENTITY AND REGISTERED NAME OF THE CHILD. IF THE BIRTH OF THE CHILD WAS NOT REGISTERED IN THE REGISTRY OF BIRTHS, IT SHALL BE THE RESPONSIBILITY OF THE CONCERNED SOCIAL WORKER TO ENSURE THAT AN APPLICATION IS PROMPTLY SUBMITTED TO THE CIVIL REGISTRAR FOR DELAYED REGISTRATION OF THE CHILD'S BIRTH BY THE BIOLOGICAL PARENTS OR, IN THEIR ABSENCE, THE PERSON OR ENTITY HAVING LEGAL CUSTODY OVER THE CHILD.

THE CASE STUDY OF THE CHILD SHOULD ESTABLISH THAT THE CHILD IS LEGALLY AVAILABLE FOR ADOPTION AND THAT THE NECESSARY DOCUMENTS TO SUPPORT THIS FACT ARE VALID AND AUTHENTIC.

The Department shall intervene on behalf of the child if it finds, after the case study, that the petition should be denied. THE CASE STUDY AND OTHER RELEVANT DOCUMENTS AND RECORDS PERTAINING TO THE CHILD AND THE ADOPTION SHALL BE PRESERVED BY THE DEPARTMENT.

SEC. 12. *Legal Proceedings.* - The proceedings for adoption shall be governed by the Rules of Court in so far as they are not in conflict with this Act [chapter].

SEC. 13. *Trial Custody.* - No petition for adoption shall be finally granted unless and until the adopting parents are given by the court a supervised trial custody period of at least six (6) months to assess their adjustment and emotional readiness for the legal union. During the period of trial custody, parental authority shall be vested in the adopting parents.

The court may, upon its own motion or on motion of the petitioner, reduce or dispense with the trial period if it finds that is IN [to] the best interest of the child. In such case, the court shall state its reason for reducing OR DISPENSING WITH THE TRIAL [said] period.

SEC. 14. *Decree of Adoption.* - If, after considering the report of the Department [of Social Welfare] or duly licensed AND ACCREDITED child placement agency and the evidence submitted before it, the court is satisfied that the petitioner is qualified to maintain, care for, [and] educate AND PROTECT the child, that the trial custody period has been completed, and that the

best interests of the child will be promoted by the adoption, a decree of adoption shall be entered, which shall be effective as of the date the original petition was filed. The decree of adoption shall state the name by which the child is [thenceforth] to be known.

SEC. 15. *Confidential Nature of Proceedings and Records.* - All hearings in adoption cases shall be confidential and shall not be open to the public. All records, books and papers relating to the adoption cases in the files of the court, OR of the Department [of Social Welfare] and of any other agency and institution participating in the adoption proceedings, shall be kept strictly confidential.

Subject to the provisions of Article 7 OF THE CHILD AND YOUTH WELFARE CODE, in any case in which the information from such records, books and papers is needed, the person or agency requesting the release of the information may file a petition WITH [to] the court which ENTERED [ordered] the decree of adoption for its release. If the court finds that the disclosure of the information is necessary for purposes connected with or arising out of the adoption and will be IN [for] the best interest of the ADOPTED [child], the court may permit the necessary information to be released, restricting the purposes for which it may be used. PERSONS TO WHOM THE INFORMATION IS TO BE RELEASED SHALL BE REQUIRED TO OBTAIN APPROPRIATE PRIOR COUNSELLING TO HELP ENSURE THAT THE INFORMATION IS RECEIVED AND USED IN A RESPONSIBLE MANNER.

SEC. 16. *Civil Registry Record.* - The adoption shall be recorded in the local civil register and shall be annotated on the record of birth and the same shall entitle the adopted person [to] the issuance of an amended BIRTH certificate [of birth] IN KEEPING WITH THE NEED FOR CONFIDENTIALITY, THE AMENDED BIRTH CERTIFICATE, UNLESS SO REQUESTED, SHOULD NOT INDICATE THAT IT WAS AMENDED.

SEC. 17. *Consent to Adoption.* - The written consent of the following to the adoption shall be necessary:

- (1) The person to be adopted, if ten (10) years of age or over;
- (2) The BIOLOGICAL parents [by nature] of the child, [the] legal guardian, or the proper government instrumentality;

- (3) The legitimate and adopted children, ten (10) years of age or over, of the adopting parent or parents;
- (4) The illegitimate children, ten (10) years of age or over, of the adopting parent, if living with the said parent and the latter's spouse, is any; and
- (5) The spouse, if any, of the person adopting or to be adopted.

ARTICLE IV SUCCESSION AND EFFECT OF ADOPTION

SEC. 18. *Effect of Adoption.* - Adoption shall have the following effects:

- (1) For ALL [civil] purposes, the adopted shall be deemed to be a legitimate child of the adopter[s] and both shall acquire the reciprocal rights and obligations arising from the relationship of parent and child [including the right of the adopted to use the surname of the adopter]; and,
- (2) EXCEPT IN CASES WHERE THE BIOLOGICAL PARENT IS THE SPOUSE OF THE ADOPTER, ALL LEGAL TIES BETWEEN THE BIOLOGICAL PARENTS AND THE ADOPTED SHALL BE SEVERED.

SEC. 19. Succession rights of the adopted shall be governed by the provisions in Title IV of the Civil Code subject to Sec. 18 of this Act.

ARTICLE V RESCISSION OF ADOPTION

SEC. 20. If the adopted is a CHILD [minor] or otherwise incapacitated, the adoption may be judicially rescinded upon the petition of any person authorized by the court or proper government instrumentality acting IN BEHALF OF THE CHILD [on his behalf], on his OR HER behalf, on the same grounds prescribed for loss or suspension of parental authority, If the adopted is at least eighteen (18) years of age, he OR SHE may petition for judicial rescission of the adoption on the same grounds prescribed for disinheriting an ascendant.

SEC. 21. Adoption, being in the best interest of the child, shall not be subject to rescission by the adopters. However, the adopters may disinherit the adopted for causes provided in Article 919 of the Civil code.

SEC. 22. If the adopted [minor] has not reached the age of majority at the time of the judicial rescission of the adoption, the court, in the same proceeding, shall reinstate the parental authority of the BIOLOGICAL parents [by nature], unless the latter are disqualified [or], incapacitated OR HAVE ABANDONED THE CHILD. IN THE LATTER [in which] case, the court shall appoint a guardian over the person and property of the minor. If the adopted is physically or mentally handicapped, the court shall appoint in the same proceeding a guardian over THE ADOPTED [his person] OR THE ADOPTED'S property or both.

Judicial rescission of the adoption shall extinguish all reciprocal rights and obligations between the adopters and the adopted arising from the relationship of parent and child AS OF THE DATE OF JUDGMENT OF JUDICIAL RESCISSION. The adopted shall likewise lose the right to use the surname[s] of the adopters and shall USE [resume] his or her surname prior to the adoption WHICH SHALL BE RECORDED IN THE PROPER CIVIL REGISTRY. SUCCESSIONAL RIGHTS SHALL REVERT BACK TO ITS STATUS PRIOR TO ADOPTION, BUT ONLY AS OF THE DATE OF JUDGMENT OF JUDICIAL RESCISSION. VESTED RIGHTS ACQUIRED PRIOR TO JUDICIAL RESCISSION SHALL BE RESPECTED.

ARTICLE VI
BENEFIT AND LEAVE ENTITLEMENTS

SEC. 23. PROVIDED THAT THE CHILD TO BE ADOPTED IS BELOW SEVEN (7) YEARS OF AGE AND IS PLACED WITH THE PROSPECTIVE ADOPTIVE PARENT THROUGH A PRE-ADOPTION PLACEMENT AUTHORITY ISSUED BY THE DEPARTMENT, THE PROSPECTIVE ADOPTIVE PARENT SHALL ENJOY ALL THE PARENTAL BENEFITS TO WHICH BIOLOGICAL PARENTS ARE ENTITLED UNDER EXISTING LAWS, INCLUDING PARENTAL LEAVE, FROM THE DATE THE CHILD IS PLACED WITH THE PROSPECTIVE ADOPTIVE PARENT.

ARTICLE VII
PENALTIES

SEC. 24. *PENALTIES.* - ANY PERSON WHO KNOWINGLY PARTICIPATES IN SECURING THE ADOPTION OF A CHILD CONTRARY TO THE REQUIREMENTS PROVIDED IN THIS ACT AND OTHER LAWS PERTAINING TO ADOPTION

SHALL BE PUNISHED WITH A PENALTY OF IMPRISONMENT RANGING FROM SIX (6) YEARS AND ONE (1) DAY TO TWELVE (12) YEARS AND/OR A FINE OF NOT LESS THAN FIFTY THOUSAND PESOS (P50,000.00), BUT NOT MORE THAN TWO HUNDRED THOUSAND PESOS (P200,000.00) AT THE DISCRETION OF THE COURT.

VIOLATION OF ADOPTION LAWS INCLUDE THE FOLLOWING ACTS:

- (1) OBTAINING CONSENT FOR AN ADOPTION THROUGH COERCION, UNDUE INFLUENCE, FRAUD, IMPROPER MATERIAL INDUCEMENT OR OTHER SIMILAR ACTS;
- (2) NON-COMPLIANCE WITH THE PROCEDURES AND SAFEGUARDS PROVIDED BY THE LAW FOR ADOPTION; AND
- (3) SUBJECTING OR EXPOSING THE CHILD TO BE ADOPTED TO DANGER, ABUSE AND EXPLOITATION.

ANY PERSON WHO SHALL VIOLATE ESTABLISHED REGULATIONS RELATING [TO THE CONFIDENTIALITY AND INTEGRITY OF RECORDS, DOCUMENTS AND COMMUNICATIONS OF ADOPTION APPLICATION CASES AND PROCESSES SHALL SUFFER THE PENALTY OF IMPRISONMENT RANGING FROM ONE (1) YEAR AND ONE (1) DAY TO TWO (2) YEARS, AND/OR A FINE OF NOT LESS THAN TEN THOUSAND PESOS (P10,000.00) BUT NOT MORE THAN TWENTY THOUSAND PESOS (P20,000.00), AT THE DISCRETION OF THE COURT.

A PENALTY LOWER BY TWO (2) DEGREES THAN THAT PRESCRIBED FOR THE CONSUMMATED FELONY UNDER THIS ARTICLE SHALL BE IMPOSED UPON THE PRINCIPALS WHO ATTEMPT TO COMMIT ANY OF THE ACTS HEREIN ENUMERATED.

ACTS PUNISHABLE UNDER THIS ARTICLE, WHEN COMMITTED BY A SYNDICATE OR WHERE IT INVOLVES TWO OR MORE CHILDREN, SHALL BE CONSIDERED AS AN OFFENSE CONSTITUTING CHILD TRAFFICKING AND SHALL BE PUNISHABLE BY *RECLUSION PERPETUA*.

ACTS PUNISHABLE UNDER THIS ARTICLE ARE DEEMED COMMITTED BY A SYNDICATE IF CARRIED OUT BY A GROUP OF THREE (3) OR MORE PERSONS CONSPIRING AND/OR CONFEDERATING WITH ONE ANOTHER IN CARRYING OUT ANY OF THE UNLAWFUL ACTS DEFINED UNDER THIS ARTICLE. PENALTIES IMPOSED UNDER THIS ACT SHALL BE IN ADDITION TO ANY OTHER PENALTIES WHICH MAY BE IMPOSED FOR THE SAME ACTS PUNISHABLE UNDER OTHER LAWS, ORDINANCES, EXECUTIVE ORDERS AND PROCLAMATIONS.

WHEN THE OFFENDER IS AN ALIEN, HE OR SHE SHALL BE DEPORTED IMMEDIATELY AFTER SERVICE OF SENTENCE AND PERPETUALLY EXCLUDED FROM ENTRY TO THE PHILIPPINES.

SEC. 25. *PUBLIC OFFICERS AS OFFENDERS.* - ANY GOVERNMENT OFFICIAL, EMPLOYEE OR FUNCTIONARY WHO SHALL BE FOUND GUILTY OF VIOLATING ANY OF THE PROVISIONS OF THIS ACT, OR WHO SHALL CONSPIRE WITH PRIVATE INDIVIDUALS SHALL, IN ADDITION TO THE ABOVE-PRESCRIBED PENALTIES, BE PENALIZED IN ACCORDANCE WITH EXISTING CIVIL SERVICE LAW, RULES AND REGULATIONS: *PROVIDED*, THAT UPON THE FILING OF A CASE, EITHER ADMINISTRATIVE OR CRIMINAL, SAID GOVERNMENT OFFICIAL, EMPLOYEE OR FUNCTIONARY CONCERNED SHALL AUTOMATICALLY SUFFER SUSPENSION UNTIL THE RESOLUTION OF THE CASE.

SEC. 26. *RECTIFICATION OF SIMULATED BIRTH.* - A PERSON WHO HAS, PRIOR TO THE EFFECTIVITY OF THIS ACT, SIMULATED THE BIRTH OF A CHILD SHALL NOT BE PUNISHED FOR SUCH ACT UNDER ARTICLE 347 OF THE REVISED PENAL CODE OR OTHER EXISTING LAWS, PROVIDED THE SIMULATION OF BIRTH WAS MADE FOR THE BEST INTEREST OF THE CHILD AND THE CHILD HAS BEEN CONSISTENTLY CONSIDERED AND TREATED BY THAT PERSON AS HIS OR HER OWN CHILD: *PROVIDED, FURTHER*, THAT THE APPLICATION FOR CORRECTION OF THE BIRTH REGISTRATION AND PETITION FOR ADOPTION SHALL BE SIMULTANEOUSLY FILED WITHIN FIVE (5) YEARS FROM THE EFFECTIVITY

OF THIS ACT AND COMPLETED THEREAFTER: *PROVIDED, FINALLY*, THAT SUCH PERSON COMPLIES WITH THE PROCEDURE AS SPECIFIED IN ARTICLE III OF THIS ACT AND OTHER REQUIREMENTS AS DETERMINED BY THE DEPARTMENT.

ARTICLE VIII FINAL PROVISIONS

SEC. 27. *IMPLEMENTING RULES AND REGULATIONS.* - AS THE LEAD AGENCY FOR THE DOMESTIC ADOPTION PROGRAM, THE DEPARTMENT, IN COORDINATION WITH THE COUNCIL FOR THE WELFARE OF CHILDREN, THE DEPARTMENT OF JUSTICE AND THE OFFICE OF THE CIVIL REGISTRAR GENERAL, AND AFTER DUE CONSULTATION WITH AGENCIES INVOLVED IN DOMESTIC ADOPTION, CHILD CARE AND PLACEMENT, SHALL PROMULGATE THE NECESSARY RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS ACT WITHIN SIX (6) MONTHS AFTER ITS EFFECTIVITY.

SEC. 28. *APPROPRIATIONS.* - THE AMOUNT OF TEN MILLION PESOS (P10,000,000.00) IS HEREBY APPROPRIATED TO THE DEPARTMENT TO COVER ADMINISTRATIVE AND OTHER EXPENSES ASSOCIATED WITH THE PROMOTION OF DOMESTIC ADOPTION, COUNSELLING SERVICES FOR PARENTS CONSIDERING THE RELINQUISHMENT OF A CHILD FOR ADOPTION, PRE-AND POST-ADOPTION SERVICES FOR ADOPTIVE FAMILIES, AND OTHER EXPENSES ASSOCIATED WITH THE IMPLEMENTATION OF THE PROVISIONS OF THIS ACT. SUBSEQUENTLY, SUCH SUMS AS MAY BE NECESSARY FOR THE PURPOSES STATED IN THIS SECTION SHALL BE INCLUDED ANNUALLY IN THE GENERAL APPROPRIATIONS ACT.

SEC. 29. *Separability Clause.* - If any provision, or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 30. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule and regulation contrary to, or

inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

SEC. 31. *Effectivity Clause.* - This law shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

Approved,

Senator Tatad. Mr. President, this is a certified measure.

For the sponsorship speech, I ask that the distinguished chairperson of the Committee on Constitutional Amendments, Revision of Codes and Laws be recognized.

The President. Senator Santiago is recognized.

SPONSORSHIP SPEECH OF SENATOR SANTIAGO

Senator Santiago. Thank you.

Mr. President, the Committee on Constitutional Amendments, Revision of Codes and Laws, jointly with the Committee on Women and Family Relations, the Committee on Finance, and the Committee on Justice and Human Rights, are pleased to recommend approval of Senate Bill No. 1523, entitled AN ACT ESTABLISHING THE RULES TO GOVERN THE ADOPTION OF FILIPINO CHILDREN IN THE PHILIPPINES to be known by the short title of "THE DOMESTIC ADOPTION ACT OF 1998."

The present laws on domestic adoption are the Family Code and the Child and Youth Welfare Code. However, these laws contain deficiencies relating to the following aspects:

1. Exclusion of qualified alien residents from adopting locally;
2. Recession of adoption where the adopted is a minor;
3. Classification of successional rights among the adopted, his biological family, and his adoptive family;
4. Denial of maternity leave for adoptive parents;
5. Absence of penalties for the disregard of adoption laws or procedures; and
6. Persistent problems of simulated birth.

All existing laws on adoption, including the Family Code, the Child and Youth Welfare Code, and the Inter-country Adoption

Act of 1995, underscore the precedence of domestic adoption over intercountry adoption. Nevertheless, domestic adoption continues to be deprived of the priority and the importance that it deserves.

This bill seeks to achieve the following goals:

1. Correct the prevailing imbalance in the attention given by the government to intercountry adoption as compared to domestic adoption;
2. Ensure that adequate resources are available for domestic adoption, promotion and services; and
3. Rectify the inadequacies in prevailing laws on domestic adoption.

Since the Philippines has many, many children particularly from the poor, for adoption, we need every adoptive home available for them. But the present provision of the Family Code, Article 184, excludes alien residents and former Filipino nationals as potential adoptive parents. The inclusion of this class of residents and nationals would provide opportunities for Filipino children to find permanent families who are already residing within the country.

The urgency of this bill is manifested in the accompanying statistics, as follows:

For 1996, there were 2,343 children who were placed with local adoptive families. This number decreased in 1997 when only 1,771 children were placed. This represents a decrease of 24.4 percent.

On the other hand, in 1996, 288 children were placed in foreign adoptive families, while 316 children were placed in 1997 or an increase of 109 percent. These figures could be attributed to the fact that there is still a dearth of local adoptive families and that there are interested adoptive parents but they may not qualify for the reason that they are either foreigners by this time or Filipinos who have become naturalized foreigners.

Within the limitation of the law, Filipino children at this time are deprived of the culture of their own country thus resulting in trauma, the trauma of adjusting to a foreign culture if the children are not properly handled by the foreign adoptive families. This is the reason the Committee on Constitutional Amendments, Revision of Codes and Laws urgently seek Senate action on this bill in order to realize three major objectives.

The first objective is to increase the resources for domestic adoption, promotion and services. The second objective is to

rectify the recognized deficiencies which are several in number in our adoption law, namely, the Family Code and the Child and Youth Welfare Code. The third objective is to consolidate in a single law the various provisions on domestic adoption that are at present found in several scattered laws.

Our committee submits to this plenary session that this bill will effect major improvements in the legal framework for domestic adoption. Among these improvements are the following:

1) Services will be provided for biological parents to prevent them from making hurried decisions to give up the child and in order to strengthen the family. There will be an expansion of the eligibility for domestic adoption to aliens residing legally in the Philippines for at least three years;

2) Where legal and intestate succession is concerned, the adoptors and the adoptee shall have reciprocal rights of succession without distinction from legitimate affiliation; and

3) Reversion of adoption will take place only upon the petition of the adoptee on certain grounds committed by the adoptors. There is a penalty clause for violation of the adoption law. There will be rectification of simulated birth and there will be additional funding for the domestic adoption program.

It is the considered belief and commitment of our committee that this bill will serve the best interest of the Filipino child and preserve the Filipino child within our native land where the State is ready and prepared to uphold all child's rights, particularly the right of the child to belong to a family.

Thank you, Mr. President.

Senator Tatad. Mr. President, I ask that the distinguished Assistant Majority Leader be recognized.

The President. The Assistant Majority Leader, Senator Romulo, is hereby recognized.

Senator Romulo. Will my distinguished colleague from Quezon City yield for a few questions, Mr. President?

Senator Santiago. Gladly, Mr. President.

Senator Romulo. Mr. President, I am in full support of this bill, but to give me a better understanding of the virtues and special features of this bill, that is the reason I have asked this opportunity to interpellate.

First, as I understand from the distinguished sponsor, this bill puts together all the various provisions on adoptions that are

scattered in various laws, and therefore, these are gathered together in this new proposed bill. Is that correct?

Senator Santiago. That is correct, Mr. President. This is a work of consolidation to make reference to adoption law more convenient for all our social workers.

Senator Romulo. Therefore, as provided here on Section 30, any other laws which are not found here, executive orders, letters of instruction, et cetera, are hereby repealed or amended accordingly.

Senator Santiago. That is correct. That is a standard repealing clause.

Senator Romulo. So that when we are concerned with adoption, all we have to do is refer to this new bill once it becomes a law.

Senator Santiago. That is correct. The intent is that we should have just a one-volume manual.

Senator Romulo. Now, under this bill, what are the specific rules on foreign adoption, Mr. President, meaning to say, adoption by foreigners of Filipino children?

Senator Santiago. Under the present system, only foreigners residing abroad are qualified to adopt Filipino children, but under this bill, even foreigners residing within the Philippines will similarly qualify to adopt Filipino children.

Senator Romulo. In the case of foreigners who are not residing in the Philippines but are coming here, what are the specific requisites that will qualify them to adopt, such as in terms of income, in terms of other children, in terms of endorsement or certification by church or NGO groups? What are the specific requirements that will be required for them to be able to qualify to adopt?

Senator Santiago. In answer to the question, please allow me to refer to the specific provisions of the bill.

My first reference will be to Section 3, on the *Definition of Terms*. Paragraph 3 defines a "resident alien" as "a person residing legally in the Philippines, including an alien who is legally permitted to work or engage in business in the Philippines, a member of the diplomatic corps and staff of international organizations based in the Philippines."

And then subsequently in Section 9, there is a provision subtitled, "*Who May Not Adopt*." In paragraph 3 of this section, the law in effect provides that "an alien may not adopt, except;" and

then defines the qualifications of the alien as follows:

"A RESIDENT ALIEN WHO HAS BEEN LIVING IN THE PHILIPPINES FOR AT LEAST THREE (3) YEARS PRIOR TO THE FILING OF THE APPLICATION FOR ADOPTION AND MAINTAINS SUCH RESIDENCE UNTIL THE ADOPTION DECREE IS ENTERED. THE ALIEN MUST BE ELIGIBLE TO ADOPT UNDER HIS OR HER NATIONAL LAW: *PROVIDED*, THAT THE COUNTRY OF WHICH SUCH AN ALIEN IS A NATIONAL MAINTAINS DIPLOMATIC RELATIONS WITH THE PHILIPPINES.

"AN ALIEN SEEKING TO ADOPT THROUGH THE DOMESTIC ADOPTION PROGRAM SHALL BE REQUIRED TO SUBMIT A CERTIFICATION ISSUED BY THE ALIEN'S DIPLOMATIC OR CONSULAR OFFICE OF HIS OR HER LEGAL CAPACITY TO ADOPT AND OF THE ABSENCE OF ANY LEGAL IMPEDIMENT OR VIOLATION OF PUBLIC POLICY THAT WOULD BAR RECOGNITION BY THE ALIEN'S NATIONAL LAW OF THE PHILIPPINE DECREE OF ADOPTION. SUCH ALIEN MAY ALSO BE SUBJECT TO ADDITIONAL DOCUMENTARY REQUIREMENTS BY THE DEPARTMENT IN ORDER TO ASCERTAIN THAT THE ALIEN POSSESSES ALL THE QUALIFICATIONS AND NONE OF THE DISQUALIFICATIONS OF AN ADOPTIVE PARENT. ALIENS DISQUALIFIED TO ADOPT UNDER SECTION 9 (3D) ABOVE MAY ADOPT FILIPINO CHILDREN IN ACCORDANCE WITH REPUBLIC ACT NO. 8043."

Senator Romulo. Mr. President, on the provision just read by our distinguished sponsor, while it says that an alien will submit a certification issued by the alien's diplomatic or consular office of legal capacity, et cetera, I do not see here any court or legal clearance in the event that such an alien, either the wife or the husband, has any pending case or conviction for crimes involving moral turpitude or abuse of children. Is it somewhere here that I have not seen?

Senator Santiago. That would fall under the General Provisions of Section 9, subtitled "Who May Not Adopt." Paragraph 2, which applies to all applicants whether they are foreigners or locals, and whether the foreigner is a resident or not, provides that the person may not adopt if the person has been convicted of a crime punishable by imprisonment of six (6) years and one (1) day or higher. This used to be the provision on moral turpitude.

Senator Romulo. This is a requirement in disqualifying. But since we are talking of an alien, we may not have the facility

to be able to ascertain this, unless in the certification by the alien's diplomatic or consular group, there is such a certification that such an alien in his or her country has not been convicted of a crime punishable by imprisonment of six years, et cetera. Am I correct there?

Senator Santiago. That is correct, Mr. President. The contemplation of the law is to cover that situation under page 6 of the bill, the second to the last sentence, which reads: "SUCH ALIEN MAY ALSO BE SUBJECT TO ADDITIONAL DOCUMENTARY REQUIREMENTS BY THE DEPARTMENT"—referring to the Department of Social Welfare and Development.

We could place on record the desire of the Senate that these rules and regulations to be promulgated by the department should contain a requirement of documentation on the moral character of the adoptive parents. Or as sponsor of this bill, I would be happy to amend this provision to make it explicit within the law itself.

Senator Romulo. That is correct, and I would be very appreciative to the chairperson of the committee if that is placed in either manner, but more specifically, if that requirement is placed in the bill itself.

The other question that I have, Mr. President, pertains to aliens who are residing in the Philippines. If I recall the provision, it says that the alien must have resided in the Philippines for, at least, three years. Therefore, a member of the diplomatic corps or an alien who is working in a foreign company or a domestic company here must have resided in the Philippines for, at least, three years. Is that correct?

Senator Santiago. Yes, Mr. President. That is correct.

Senator Romulo. It also states here in the proposed bill that such an alien must still be residing in the Philippines at the time the adoption papers are approved. Is that correct?

Senator Santiago. That is correct. Until the adoption decree is entered by the judge.

Senator Romulo. Mr. President, the question here is related to the fact that most members of the diplomatic corps—I think a great majority of them; I am talking of the ambassador and, perhaps, the minister and counselor—stay in the Philippines for a period not exceeding three years or a little bit over three years.

I have met some of them, and during our conversation they have expressed their desire to adopt. What happens to them if, after three years or three-and-a-half years, as many of them are reassigned by their respective countries, they would not...

Let me put it this way: First, they must have resided here for three years. Obviously, they cannot start the adoption until they have complied with that residency requirement, and they will not also be here if they are assigned for only three years or three-and-a-half years. Does this mean that there is no provision here in the bill that would qualify them, assuming that they are reassigned or would leave the country after three years or three-and-a-half years?

Senator Santiago. That is correct. The bill is strict in that it requires two residence requirements: residence at the time of the filing and residence at the time of the promulgation of the judgment of adoption. If these two residence requirements are not concurrently complied with, the alien will have to follow the procedures under Republic Act No. 8043 which establishes rules governing intercountry adoption of Filipino children which is much more complicated and tedious.

Senator Romulo. Of course, the residence requirement is placed there for a purpose. That is to allow the agencies to look more closely at the background and the personal conduct and behavior of the adoptive parents.

In the case, for instance, of a couple who are adopting—they are in the diplomatic corps or working in the Philippines, either in a domestic or foreign corporation—what if the wife, for instance, remains or comes back and forth, would she be able to retain residency for that purpose even if she leaves every now and then?

Assuming that she is able to retain her residency, would the fact or situation that only one remains here as a resident while the husband or, perhaps, the wife is reassigned to another jurisdiction fit into the law as regards those who wish to adopt?

Senator Santiago. In the first instance, I will have to admit that that situation is not explicitly or categorically treated under the present provisions of this bill. Therefore the answer to the question is a question of interpretation by the trial judge of the phrase "and maintains such residence until the adoption decree is entered."

We have generic legislation, particularly from jurisprudence, on what the meaning of "residence" is. We have been taught by our Supreme Court in cases that did not have to do with adoption but have to do with the term "residence" that the operative element is the intent to reside.

So, my answer to the question then is: That the judge would be well within the rulings of our Supreme Court if he or she rules that the resident is qualified even if after the filing of the petition for adoption, the resident alien would already have left the

Philippines but thereafter return to the Philippines occasionally while following up the case, and if in the Philippines when the judgment is promulgated in court as long as it can be shown that the alien has consistently entertained the intention to reside.

The President. With the permission of the lady senator and the gentleman on the floor, the Chair wishes to ask a clarification on this particular point.

We are aware that in adoption cases there are certain practices whereby former Filipino citizens who are now citizens and residents of the United States would want to adopt a relative. So they hire a lawyer and it is the lawyer who prepares everything, including the publication, and come over here only during the period of the hearing.

Is that procedure sanctioned or allowed under this particular bill?

Senator Santiago. Yes, Mr. President, because the law provides as follows. We are in Section 9, subtitled "Who May not Adopt." The following persons may not adopt: Nos. 1, 2 and then No. 3, reads, "The following persons may not adopt:"

"(3) An alien, except: (a) a former Filipino citizen who seeks to adopt a relative by consanguinity..."

The President. The question propounded by the Chair does not concern that, but it is the question of residence, as pointed out by Senator Romulo, that is involved. Here are former citizens of the Philippines and some of them are permanent residents in the United States. Therefore, they cannot have residence in the Philippines but they come over here only during the duration of the hearing and thereafter leave the Philippines.

Senator Santiago. I take the point, Mr. President, and I read that because I wanted to point out that the bill, as worded, states only in effect that an alien is allowed to adopt including "A former Filipino citizen who seeks to adopt a relative by consanguinity;". Then it is immediately followed by a semicolon, which means that there is no residence requirement for the *balikbayan* if the child that he seeks to adopt is a relative by consanguinity. But if not, if the child is not a relative by consanguinity, then the residence requirement would have to apply because the *balikbayan* would be considered under the classification of "a resident alien" under paragraph (d).

The President. So, may one who is no longer a minor, meaning he is over 18 years of age, be adopted under the present law or under the provisions of this bill?

Senator Santiago. I am going to refer to the provision on "Who May be Adopted." That is on page 5 of this bill, Section 8.

The general rule is, only minors may be adopted except in cases where the adoption of a person of majority age is allowed under this Act.

The President. What are those instances?

SUSPENSION OF SESSION

Senator Santiago. May I just have a one-minute suspension, please.

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

It was 4:45 p.m.

RESUMPTION OF SESSION

At 4:46 p.m., the session was resumed.

The President. The session is resumed. Senator Santiago may proceed.

Senator Santiago. Mr. President, the question from the Chair was whether a person who is of majority age may still be adopted. The answer was only minors as a general rule. But the following are the exceptions. The exceptions are found also in the same Section 8, the second paragraph which reads:

The following may not be adopted:

A person of legal age, unless he or she is a BIOLOGICAL child of the adopter or his or her spouse, or, prior to the adoption, said person HAS been consistently considered and treated by the adopter as his or her own child during minority.

So that would be the exception. A child who is no longer a minor who has already reached majority age may still be adopted provided he or she is a biological child of the adopter, or of the spouse of the adopter.

The President. Thank you so much and I would like to thank the Assistant Majority Leader for yielding the floor temporarily for the purpose of clarification.

The Assistant Majority Leader may proceed.

Senator Romulo. Thank you, Mr. President.

While we are on the alien, our distinguished sponsor has already cited (3)(a), which is: A former Filipino citizen who seeks to adopt a relative by consanguinity; the other one is an alien except one who seeks to adopt the legitimate child of his or her Filipino spouse. So that is quite clear. The third is, one who is married to a Filipino citizen and seeks to adopt jointly with his or her spouse a relative by consanguinity of the latter; and the fourth, a resident alien who has been living.... That is the one that we were discussing before—provided, that the country....

My other question, Mr. President, is: Is there any period after the adoption is consummated—in other words, the courts have declared the child adopted—is there still a probationary period within which said adopting parent and the adopted child are still under what we might call probation so to speak, under the supervision of any agency, or is that final? It cannot be reviewed and revoked anymore.

Senator Santiago. Mr. President, the answer to that question is found on page 8 of the bill, Section 13, subtitled "Trial Custody." The provision reads:

"No petition for adoption shall be finally granted unless and until the adopting parents are given by the court a supervised trial custody period of at least six (6) months to assess their adjustment and emotional readiness for the legal union. During the period of trial custody, parental authority shall be vested in the adopting parents.

"The court may, upon its own motion or on motion of the petitioner reduce or dispense with the trial period if it finds that it is in the best interest of the child. In such case, the court shall state its reasons for reducing or dispensing with the trial period."

So in brief, the answer is, that there will be a mandatory six-month trial custody period before the final and executory decision is issued by the court. However, that is only the general rule and exceptions may be made by the trial judge.

Senator Romulo. In fact, it says here that the trial judge "may reduce," but it does not say "may increase" the trial custody. Is that correct?

Senator Santiago. That is correct. The discretion of the judge is only either to reduce or to dispense altogether with the trial period, but he or she cannot make it longer.

Senator Romulo. And the trial custody is mandated here for a period of six months or, as already stated, unless it is reduced.

Senator Santiago. That is correct.

Senator Romulo. I know of instances, Mr. President, where the child, we may say, is already in custody of the adopting parents. In fact, they have had this relationship for a certain period and it is only after such a period—because both the adopter and the adoptee have adjusted emotionally and physically—that the papers for adoption are processed and filed.

Now, am I to understand under this bill that the moment the adoption papers are filed or start to be processed that said child must be removed from the custody of the adopting parent or the adopting-to-be?

Senator Santiago. No, Mr. President. The practice in trial court with respect to social workers is for the applicant for adoptive-parent status to continue with the custody of the adoptive child during the proceedings. In fact, the conventional practice, at least—since I became a trial judge—has been for the social worker to recommend to the judge that Section 13, on trial custody, or whatever is the equivalent under existing law, should be waived in view of the custody already enjoyed by the adoptive parent over the child.

Senator Romulo. That is very logical. I think that is precisely the reason this ability to reduce the trial custody period is here. When such child has already been, in fact, living with the adoptive parents, the trial custody has been fulfilled. For this reason, the social worker may now recommend to the judge, since they have already adjusted emotionally and physically and everything and that the child has been with the adopting parents for, say, one or two years, that the six-month trial custody period be reduced to six days or even dispense with it.

Senator Santiago. It can even completely dispense with the trial-custody period. Normally, the judge would grant such a motion in the interest of equity.

Senator Romulo. Is there any particular age of the adopting-parent that is required for them to qualify to adopt any child of minor age, et cetera?

Senator Santiago. Yes, Mr. President. The answer is found on page 4 of the bill, Section 7, subtitled "Who May Adopt." And the provision reads:

SEC. 7. WHO MAY ADOPT. - A person of age and in possession of full civil capacity and legal rights may adopt, provided he or she is in a position to support and care for his or her children, legitimate or illegitimate, in keeping with the means of the family.

In addition, the adopter must be at least sixteen (16) years older than the person to be adopted, unless the adopter is the biological parent of the adopted, or is the spouse of the legitimate parent of the person to be adopted.

Senator Romulo. So that under this provision, do I take it that couples who are aged, say, 75, can still adopt provided they meet this requirement of a difference of at least 16 years?

Senator Santiago. Yes, Mr. President, that is correct.

Senator Romulo. In other words, there is no maximum age limit.

Senator Santiago. There is no age limit for the adoptive parent.

Senator Romulo. And the period is always as long as it is a 16 years gap. In other words, if the gap is, say, 15 or 10 years, then that is not allowed.

Senator Santiago. No, that is not allowed. My husband, for example, would not be allowed to bring into my house, since my husband is now 52 years old, a 40 year old woman. He cannot bring into my house an 18-year-old and propose that he and I should adopt the 18-year-old woman.

Senator Romulo. It says here, "must be at least 16 years older." So, one can be older by 20 or 25 years.

Senator Santiago. That is correct. My first example is correct. He cannot bring home a 35-year-old woman, a 36-year-old woman or beyond.

Senator Romulo. But younger can be adopted.

Senator Santiago. I never thought of it that way. I should better be careful.

Senator Romulo. I think we should better be careful about that, Mr. President, because all sorts of difficulties and problems can arise.

Senator Santiago. I know that a 16-year difference in age has always been a conventional formula employed in all adoption laws. We copied the original provision from abroad. But now that the gentleman has pointed it out, it is possible for a 72-year old man to bring home to his 72-year old wife a teenager and propose that they should adopt. That is what happened to Woody Allen.

Senator Romulo. That is correct. In fact, that is the case in point, Mr. President. The danger there is quite obvious. There will be no danger if a 75-year-old adopts a 65-year-old. But imagine if he adopts a 20-year-old. As in the case of Woody Allen who, I think, is almost 60 years old, adopts a 16- or 18-year-old, I think there will be a lot of fun somewhere.

Perhaps, during the period of amendments, this can be reviewed and reconsidered, Mr. President.

Senator Santiago. I would like to thank the gentleman for raising that point. That is certainly welcome and it does bear serious scrutiny.

Senator Romulo. Mr. President, I know it is in the bill, but adopting parents who have children may also adopt. Is that not correct?

Senator Santiago. That is correct.

Senator Romulo. Does one need the consent of the children, whether they are of minor age or they are already of majority age, before the adoption can be consummated?

SUSPENSION OF SESSION

Senator Santiago. May we have a one minute suspension of the session, Mr. President.

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

It was 4:48 p.m.

RESUMPTION OF SESSION

At 4:49 p.m., the session was resumed.

The President. The session is resumed. Senator Santiago is recognized.

Senator Santiago. Mr. President, the answer to the question is found on page 10, Section 17, subtitled "Consent to Adoption" which reads:

SEC. 17. *Consent to Adoption.* - The written consent of the following to the adoption shall be necessary:

- (1) The person to be adopted, if ten (10) years of age or over;
- (2) The BIOLOGICAL parents of the child, legal

guardian, or the proper government instrumentality;

- (3) The legitimate and adopted children, ten (10) years of age or over, of the adopting parent or parents;
- (4) The illegitimate children, ten (10) years of age or older, of the adopting parent, if living with the said parent and the latter's spouse, if any; and
- (5) The spouse, if any, of the person adopting or to be adopted.

Senator Romulo. Under this provision, Mr. President, it seems clear that the legitimate and adopted children, 10 years of age or over, have to give their consent. It seems clear also that if they are underage—nine, eight, seven or thereabouts—that it is not necessary.

Senator Santiago. That is correct, Mr. President.

Senator Romulo. In the case of illegitimate children, 10 years of age or older, of the adopting parents—it says, "if living with the said parent and the latter's spouse." In other words, if the illegitimate children are not living with the parent and the latter's spouse, then even if they are 10 years of age or over, they have no cause of action. In other words, even if their consent is not obtained, the adoption would have no defect. Is that correct?

Senator Santiago. That is correct, Mr. President.

Senator Romulo. In the case of the biological parents—I understand from the sponsorship speech of the distinguished chairman—there are certain conditions before the adoption may be consummated with respect to the biological parents. May we know in what provision is that found, Mr. President?

Senator Santiago. I believe we are still in Section 17. We need the consent to the adoption of the biological parents.

Senator Romulo. I thought I heard during the sponsorship speech that not only the consent but that efforts would be made by the agency or the court to ask the parents to ascertain whether there is a necessity for the adoption. Since I think the law recognizes the fact that for the welfare and benefit of the child, unless circumstances show otherwise, it is best to have the biological child remain with the sole parent and the child be not put up for adoption.

Senator Santiago. That is correct. The answer to that question is found in the bill on page 3, Article II, subtitled Biological Parents, specifically Section 4, subtitled *Counseling Services*, and Section 5, subtitled *Hurried Decision*.

Senator Romulo. So under Section 5, "In all proceedings xxx by the department xxx to prevent the biological parents from making hurried decisions xxx and to ascertain that all measures to strengthen the family have been exhausted," this, of course, means that this is in the discretion of the court.

Senator Santiago. In the discretion of the court, under the provisions of Section 4, which provides for a period of six months to be given to the biological parents during which period they shall be allowed to reconsider any decision to relinquish a child for adoption.

Senator Romulo. For instance, Mr. President, the family is not poor, perhaps, it is even well-off to a certain degree. But the purpose of allowing the adoption is that the biological parents feel that their child would have better opportunity if the parents who wish to adopt, for instance, are living in the States or in Europe where they can provide better education to their child. They are not poor; they are not destitute but certainly, they may not be able to provide the best education for their child. Would this be a reason for disallowing the adoption?

Senator Santiago. Yes, Mr. President. It would be a legitimate ground for the judge to dismiss the petition in the light of the provisions found on page 1 of the bill, particularly, Section 2, *Declaration of Policy*, which provides *inter alia*: "It is hereby the policy of the State:

(1) TO EXERT ALL EFFORTS TO ENSURE THAT EACH CHILD REMAINS UNDER THE CARE AND CUSTODY OF HIS OR HER PARENTS. ONLY WHEN SUCH EFFORTS PROVE INSUFFICIENT AND NO APPROPRIATE PLACEMENT OR ADOPTION WITHIN THE CHILD'S EXTENDED FAMILY IS AVAILABLE SHALL ADOPTION BY AN UNRELATED PERSON BE CONSIDERED.

It can, of course, be argued that in that hypothetical case where the biological parents are capable of supporting and educating the child but simply wished to place him in conditions that would improve his fortune in the world, perhaps paragraph 2 might also be relevant because it is also a declared policy to ensure that the best interest of the child shall be the paramount consideration in all adoption procedures.

In trial practice, the judge normally does not consider as a legitimate reason or to the best interest of the child the reason that the child is being put up for adoption simply to improve his prospects in the world if the parents are already capable of giving him an education and a reasonably decent standard of living.

Senator Romulo. In the experience of our distinguished

sponsor having been a judge—and if I am not mistaken, a judge who has participated or has been involved in the adoption of children—are cases for adoption limited to the inability of the parents to provide the necessities for the children because they are impoverished? And perhaps, the other reason is emotional.

Senator Santiago. Yes, Mr. President. Perhaps, 90 percent out of 100 cases of adoption are cases where the child has been abandoned, or has been formally declared abandoned or is neglected or dependent. In other words, in 90 percent, if not more of these cases, the rationale for the adoption is simply to provide the child with the basic necessities of life.

Senator Romulo. Has our distinguished chairman come across a case, whether here or abroad where, in order to improve the lot of the child either for better education and health facility or to enable the child to inherit a fortune, such adoption has been made?

Senator Santiago. No, Mr. President. Trial judges assigned to handle family law generally disapprove of such motivations because it is so mercenary that the tendency will be for the parents, in effect, to sell their children to the highest bidder.

Senator Romulo. Mr. President, this is a very important bill; it is a major bill. During this interpellation, I believe the distinguished sponsor has satisfied us with very cogent and logical answers to all the questions.

So, I would like to thank the distinguished sponsor and chairman of the committee for sponsoring this important landmark bill.

Senator Santiago. And I thank Senator Romulo as well.

MANIFESTATION OF SEN. ROMULO
(Sen. Romulo as Coauthor of S. No. 1523)

Senator Romulo. May I just ask that I be made coauthor of this bill, as I feel this is a very good and important bill.

Senator Santiago. I will be delighted, Mr. President.

Senator Romulo. Thank you, Mr. President.

The President. It is so noted. Senator Romulo is made coauthor of this bill.

May the Chair just ask two questions.

In respect to former Filipino citizens referred to in line 2 of

page 6—meaning the exception where aliens may adopt—why are relatives here limited to those by consanguinity and it does not include those who are so by affinity?

Senator Santiago. This is a reflection of a native cultural bias, or prejudice in favor of blood relations. This is a peculiarly Asian world view.

The President. So, the committee has no intention of expanding this to include relatives by affinity.

Senator Santiago. If there are reasonable grounds for advancing an argument, the committee would be happy to consider it.

The President. Up to what degree of relatives by consanguinity or affinity, up to what degree?

Senator Santiago. Generally, in trial courts, this phrase is construed in an open-ended way. As long as there is a tie of consanguinity, no matter how remote, then it falls under the coverage of this exception.

The President. Is that the clear intention of this provision?

Senator Santiago. Yes, Mr. President.

The President. Probably, during the period of amendments, this matter may further be clarified.

The Chair would like to thank the lady senator so much.

Senator Santiago. Thank you, Mr. President.

The President. The Majority Leader is recognized.

Senator Tatad. Mr. President, I ask that the distinguished Minority Leader be recognized.

The President. The Minority Leader is recognized.

Senator Maceda. Will the distinguished sponsor answer a few questions?

Senator Santiago. Yes, Mr. President.

Senator Maceda. Mr. President, may we be informed as to what the basic intention of the measure as regards alien adopters is? Is the measure being presented to make it easier for them or to regulate and make it harder for them?

Senator Santiago. The intent is to make it easier for

resident aliens, because the premise is that the population of children put up for adoption is expanding and we need a corresponding expansion in the population of adoptive parents even if they are aliens.

Senator Maceda. I have asked that question to establish whether the period of three years as a requirement for a resident alien to adopt allows for some flexibility as to a change downwards or upwards.

Senator Santiago. May I request a clarification of the question, please?

Senator Maceda. On page 6, subsection (d), there is a three-year residence requirement. Would the committee be more inclined to reduce this or would the committee accept an amendment to increase this to, let us say, five years?

Senator Santiago. As it is now worded, the bill gives to the judge the discretion to provide for the period of residence as a requirement for a resident alien for as long as it is at least three years. The judge can make this period longer, but he cannot make it shorter.

Senator Maceda. Would the committee accept an amendment to increase this to five years?

Senator Santiago. To make it a mandatory minimum of five years.

Senator Maceda. Yes, Mr. President.

Senator Santiago. Mr. President, I will have to consult with the Department of Social Welfare and Development resource panel who are present, because they basically drafted this bill on the basis of their work experience in the trial court. But we certainly have an open attitude.

Senator Maceda. Mr. President, may I explain? I think that when those adoption bills were drafted as early as five years ago—I have been seeing these bills even in 1992, 1993 and up to now—it was really in the context of extreme poverty. But without meaning to be political, when the time comes that we are already really a developed country, the policy then could shift in favor of trying to make it more difficult for aliens to adopt. Because while they are resident aliens here, let us say, for three years, these are probably, as indicated, diplomats, representatives of international organizations, executives, et cetera, the majority of whom will ultimately leave the country.

Meaning to say, I have no problem with a resident alien adopting a child if there is some indication that the resident alien

will really stay here for the rest of his life or until he gets citizenship. But when our economic condition improves, I do not think it is fair to Filipino children, or whatever age they are, if they are going to be transferred to another country far from biological relatives and friends.

Senator Santiago. Mr. President, that was the original attitude of the Department of Social Welfare and Development. So they were themselves the source of the law which makes it extremely legally complicated and difficult for an alien to adopt a Filipino child.

The result of this worldview was the Intercountry Adoption Law. As I said, the procedure here is intended actually to discourage the aliens or at least to make sure that they are fully committed to the concept of adoption.

However, from the time that this law went into effect in 1995, the Department of Social Welfare and Development has found grounds to feel apprehensive about the future of our children from the poor classes because there are so few Filipinos who file petitions to adopt Filipino children. This is the reason the Department of Social Welfare and Development recommends that at least for a certain temporary period, we should liberalize adoption by resident aliens.

Senator Maceda. May we know if there is a provision in the law which, in effect, provides for a temporary period? Because that might be the answer.

Senator Santiago. No, it does not. I used that phrase because of the point raised on interpellations by the distinguished gentleman. We could, if he felt strongly about it, include a provision that the law should be reexamined, let us say, after five years.

But basically, the purpose of the law is this. There should be an equivalence between intercountry adoption by a foreigner who does not live in the Philippines at all and an adoption by a foreigner who is even only temporarily residing in the Philippines.

In the case of intercountry adoption under the present law, the proposed adoptive foreign parent does not even need to come to the Philippines at all because there is no residence requirement at all. And if that is so, then it would not be reasonable to make it difficult for resident aliens to adopt Filipino children, considering that they are already residing in our own country.

Senator Maceda. The problem, Mr. President—of course, we plead some sort of deficiency here—is whether it is by accident or it is by intention. The Intercountry Adoption Law and this law,

coincidentally, are being taken up in the last few days of the session. And frankly speaking, I recall that when the Intercountry Adoption Law was taken up, it was also in that context, and we really did not go in too much debate and discussion on the matter. But that is, of course, no longer that relevant now. I am just pointing that out for the record.

Now, I support the stand of the Senate President on the question of consanguinity or affinity, especially if this former Filipino citizen is probably going to leave again. If the idea is, as stated, to try to encourage more adoptions, especially for those who have some relations, the matter of allowing relatives by consanguinity or affinity within the fourth degree, in my opinion, should be allowed.

So if the Senate President will propose that amendment, I shall certainly support it.

Now, still on page 6 (b) and (c), I see the difference here. It says:

“(b) One who seeks to adopt the legitimate child OR CHILDREN of his or her Filipino spouse; [or]

“(c) One who is married to a Filipino citizen and seeks to adopt jointly with his or her spouse a relative by consanguinity of the latter.”

This is basically the same except, probably, the difference is the joint adoption. Would that be correct?

Senator Santiago. Under paragraph (b), the subject is only the legitimate child. But under paragraph (c), the subject is a bigger group, because it covers relatives by consanguinity who do not necessarily have to be children.

Senator Maceda. Exactly, Mr. President. On the other hand, a legitimate child is also within the ambit of relative by consanguinity. Is that not correct?

Senator Santiago. That is correct, Mr. President.

Senator Maceda. So the only difference between paragraph (b) and paragraph (c) that I see is the phrase “to adopt jointly.”

Senator Santiago. I see the point. Paragraph (c) is meant to cover a situation of joint adoption by both spouses.

Senator Maceda. All right. For purposes of simplicity, I think we need not combine them, although they could really be combined. And so I will not press the point.

Now, going down the lower part of the page—line 18. What I would like to point out is that the bill, as proposed under subsection (d), talks of resident alien. Of course, taking into consideration that a resident alien, who is a former Filipino citizen, is already under paragraph (a), even if he is a former Filipino citizen, he is still an alien.

So the question is: Would a former Filipino citizen who is now an alien still be subject to the requirements, such as getting a certification by the aliens, diplomatic or consular office, et cetera? Or should we make it clear that a former Filipino citizen is no longer required to submit the requirements expected of a resident alien under paragraph (d).

Senator Santiago. I would have thought that the mere physical arrangement of the provisions would indicate that the former Filipino citizen does not need to go through the documentary and other requirements which are specified in paragraph (d). But if the distinguished gentleman deems it necessary to include an explicit provision exempting the former Filipino citizen in paragraph (a) from the requirements specified in paragraph (d), we would have no objection.

We would like to submit, however, that since this would involve a question of statutory construction, we would then have to apply the principle in statutory construction that a specific provision prevails over a general provision. And since paragraph (a) is specific, it will prevail over paragraph (d), which is general.

However, if the distinguished gentleman deems it necessary to include an explicit provision to this effect, we have no objection.

Senator Maceda. I think we could really clarify that. Because in most of these cases, these are really Filipinos who, for purposes of convenience and in view of the martial law years, took on, let us say, US citizenship or German citizenship for that matter, and have come back to stay here permanently but are just keeping their US citizenship and US passports for convenience of travel or just as some sort of assurance of being able to leave, if they have to leave suddenly.

For all intents and purposes, they have come back to stay as Filipino citizens and really have very little contact with the foreign embassies of their present citizenship. I guess there would be enough reason to exclude them from the requirements of subparagraph (d).

Senator Santiago. Yes, Mr. President. As I said, my view is that from the phraseology of Subsection 3, it is very clear that

a *balikbayan* does not need to be subjected to a residence requirement or to other documentary requirements because he would occupy a category distinct from the category of resident aliens in general. A resident alien who is a former Filipino citizen is given preferential treatment. But as I have said, we have no objection to making the exemption from the normal requirements more explicit.

Senator Maceda. May we go back to page 5, line 5, Mr. President?

Senator Santiago. Yes, Mr. President.

Senator Maceda. Since this is really for purposes of adoption, may we make this all inclusive and specific because between lawyers and judges, "legally separated" has a strict connotation.

May we just make this in the period of amendments, "when the spouses have their marriage annulled, divorced or are legally separated from each other."

Senator Santiago. Yes, Mr. President. That would be a definite improvement. Thank you. We shall be happy to make that amendment.

Senator Maceda. Just one or two more points. Just like Senator Romulo, I have a little hesitation about this 16 years difference.

Senator Santiago. Mr. President, I was thinking that, as worded, Section 7 would hypothetically or speculatively allow the adoption by a pedophile of the child that he is victimizing. That would be an additional incentive for the committee to restudy Section 7.

Senator Maceda. That is correct. In the matter of consent, if the person to be adopted is less than 10 years old, who are the people who have to give the consent?

Senator Santiago. May I have the section number please?

Senator Maceda. Section 17, page 10, the written consent. "1. The person to be adopted if 10 years of age or lower." If below 10 years old, who are the people who will give consent? The parents, of course.

Senator Santiago. Under paragraph 2, the biological parents.

Senator Maceda. Supposing both parents are dead?

Senator Santiago. The legal guardian or the proper government instrumentality. That would be the Department of Social Welfare and Development.

Senator Maceda. What is the rule if the biological parents gave their consent and the person to be adopted over 10 years old does not give his or her consent?

Senator Santiago. Under the declaration of state policy in Section 2, the will of the child is always paramount because it would be subsumed under the clause "the best interest of the child." That is the operative principle. So the will of the child formally expressed to the judge will prevail over the will of his biological parents.

Senator Maceda. Maybe there would be a necessity for putting here somewhere that the Department of Social Welfare and Development would have the responsibility to inform a child 10 years of age or over that he has the right to refuse adoption. As many times, a 10-year-old or a 12-year-old child probably does not know anything about these things and when the parents or the guardian or even in some cases the proper government instrumentality having been convinced by the adoptor to side with them, the poor child probably does not know that he can object.

Senator Santiago. I will have to take exception respectfully because in practice, the social welfare workers always advise the children in the local vernacular that they have the right to refuse adoption. But I would have no objection if we include an explicit provision to that effect imposing this mandatory obligation on the social worker.

Senator Maceda. Accepting that and that the social worker, of course, in reporting to the court, must make a definite allegation that that obligation has been complied with.

Senator Santiago. I will be happy to accept that amendment.

Senator Maceda. Now on the matter of hurried decisions, Section 5. May we put here some more, that no adoption proceedings could be started within six months after the death of either parent?

Senator Santiago. Yes, Mr. President. That is welcome.

Senator Maceda. Because usually when a parent dies, the grieving mother right away, without any visible means of support, succumbs to offers such as, "We will just adopt your child." We should give the surviving spouse at least six months to think about this matter.

Senator Santiago. There is already a provision in the bill and also in existing law that the biological parents shall always have a six-month period to rethink the decision to put up the child for adoption. That is found on page 3, Section 4. The second to the last sentence provides that a period of six months shall be allowed for the biological parents to reconsider any decision. But, we can make it more explicit with respect to a situation where one of the biological parents has died.

Senator Maceda. That is correct, Mr. President. So, in the period of amendments, we will propose that.

Thank you, very much.

Senator Santiago. Thank you, Senator Maceda.

Senator Tatad. Mr. President, since there are no further interpellations, I move that the period of interpellations be closed.

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

SUSPENSION OF SESSION

Senator Tatad. May I ask for a minute suspension of the session, Mr. President.

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

It was 5:34 p.m.

RESUMPTION OF SESSION

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

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

Senator Tatad. Mr. President, there are no committee amendments, I move that the period of committee amendments be closed.

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

SUSPENSION OF CONSIDERATION OF S. NO. 1523

Senator Tatad. Mr. President, to allow our colleagues to formulate their proposed individual amendments, I move that we temporarily suspend consideration of Senate Bill No. 1523.

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

**MOTION OF SENATOR TATAD
(Adoption of House Version of H. No. 9550)**

Senator Tatad. Mr. President, we are in receipt of copies of House Bill No. 9550 as approved on Third Reading. This is a counterpart of Senate Bill No. 2085, which we have approved earlier, entitled "An Act Changing the Term of Office of Barangay Officials and Members of the Sangguniang Kabataan from Three Years to Five Years, Amending for the Purpose Section 43 of Republic Act No. 7160, Otherwise Known as the Local Government Code of 1991, and for Other Purposes."

The two versions are identical except for one word. On page 1, line 5 of the Senate version, there is a word "local" appearing between the words "all" and "elective."

After consultation with the chairman of the committee, I move that we adopt the House version.

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

**CONFERENCE COMMITTEE REPORT
ONS. NO. 1885/H. NO. 6455
(Philippine Export and Foreign Loan
Guarantee Corporation)**

Senator Tatad. I move that we now consider the Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 1885 and House Bill No. 6455.

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

Senator Tatad. I ask that the gentleman from Cagayan be recognized on behalf of the panel to sponsor the report.

The President. Sen. Juan Ponce Enrile is recognized.

REPORT OF SENATOR ENRILE

Senator Enrile. Thank you, Mr. President.

Mr. President, I have the honor to submit the following joint statement of both Houses, the Senate and the House of Representatives, by way of explanation of the amendments agreed upon by the conferees and recommend the approval of this Conference Committee Report on the disagreeing provisions of Senate Bill No. 1885 and House Bill No. 6455, as follows:

1. The conferees agreed to use the Senate version as the working draft;

2. Section 1 of the reconciled bill is common to both Senate and the House versions;

3. Sections 2 to 6 of the Senate version were accordingly adopted as Sections 2 to 6 of the reconciled bill;

4. Section 7 of the reconciled version is a merger of the first paragraph of Section 7 of the House version and the second paragraph of Section 7 of the Senate version;

5. Section 8 of the reconciled bill was taken *in toto* from the Senate version;

6. Sections 9, 10, and 11 of the reconciled bill are the usual Separability, Repealing and Effectivity clauses;

7. The conferees agreed to adopt the title of the Senate version as the title of the reconciled bill which shall read as follows:

AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 1080, AS AMENDED, BY REORGANIZING AND RENAMING THE PHILIPPINE EXPORT AND FOREIGN LOAN GUARANTEE CORPORATION, EXPANDING ITS PRIMARY PURPOSES, AND FOR OTHER PURPOSES.

It was also agreed, Mr. President, that in case of conflict between the statements/amendments stated in this Joint Explanatory Statement and that of the provisions of the consolidated bill in the accompanying Conference Committee Report, the provisions of the latter shall prevail.

I would like to submit this matter for approval.

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

**APPROVAL OF CONFERENCE COMMITTEE REPORT
ONS. NO. 1885/H. NO. 6455**

Senator Tatad. Mr. President, I move for the approval of the Conference Committee Report.

The President. Is there any objection? [Silence] There being none, the Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 1885 and House Bill No. 6455 is hereby approved.

CHAPTER VII
PENALTIES

SEC. 48. Failure or refusal to observe the provisions of this act; and any violation of the corresponding rules and regulations issued by the Office of the President, shall after proper notice and hearing, shall be penalized by public censure which shall be published at least once in a newspaper of general circulation.

The Department of Education, Culture and Sports and the Commission on Higher Education, upon the recommendation of the Institute and after proper notice and hearing shall cause the cancellation of the recognition or permit of any private educational institution which fails or refuses to observe the provisions of this Act for the second time.

SEC. 49. The Department of Education, Culture and Sports (DECS) and the Commission on Higher Education shall ensure that the National Anthem, as adopted by law, shall be committed to memory by all students of both public and private educational institutions, and performed during the flag ceremony conducted in accordance with the rules and regulations issued by the Office of the President. In addition, they shall make available the vocal, piano or band scores of the National anthem, as adopted by law, to all private and public schools, as well as the general public.

SEC. 50. Any person or juridical entity which violates any of the provisions of this Act shall, upon conviction, be punished by a fine of not less than Five thousand pesos (P5,000) nor more than Twenty thousand pesos (P20,000), or by imprisonment for not more than one (1) year, or both such fine and imprisonment, at the discretion of the court: *Provided*, That for any second and additional offenses, both fine and imprisonment shall always be imposed: *Provided, further*, That in case the violation is committed by a juridical person, its President or Chief Executive Officer thereof shall be liable.

CHAPTER VIII
COMMON PROVISIONS

SEC. 51. The Institute shall issue the necessary rules and regulations to implement the provisions of this Act ninety (90) days after effectivity. The Institute shall submit its rules and regulations to the Office of the President and the Congress of the Philippines.

SEC. 52. The Institute shall also be responsible for the strict enforcement of the provisions of this Act. It may call upon any government, department, agency, office, or government instrumentality, including government corporations, and local government units, for such assistance as it may deem necessary for the effective discharge of its functions under this Act.

SEC. 53. *Separability Clause.* - If any provision, or part hereof, is held invalid or unconstitutional, the remainder of this Act not otherwise affected shall be valid and subsisting.

SEC. 54. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provisions of this Act is hereby repealed, modified, or amended accordingly.

SEC. 55. *Effectivity.* - This Act shall take effect fifteen (15) days from the date of its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,

BILL ON SECOND READING
S. No. 1523--Rules Governing the Adoption of
Filipino Children
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 1523.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 1523 is now in order.

Senator Tatad. Mr. President, we are now in the period of individual amendments. I ask that we go through the bill page by page.

I ask that the sponsor of the bill be recognized.

The President. Senator Santiago is recognized. We are now in the period of individual amendments.

Senator Tatad. Since there are no committee amendments, Mr. President, we go now to the period of individual amendments.

The President. Are there individual amendments on page 1?

Senator Tatad. Mr. President.

The President. The Majority Leader is recognized.

TATAD AMENDMENT

Senator Tatad. On page 1, line 4, the figure "1996" should now read 1998.

The President. What does the sponsor say?

Senator Santiago. May I request the gentleman to repeat the amendment, Mr. President?

Senator Tatad. On page 1, line 4, I believe the figure "1996" should now read 1998.

Senator Santiago. It is accepted, Mr. President.

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

Are there further individual amendments on page 1? [Silence] On page 2? [Silence] Page 3? [Silence] On page 4?

Senator Maceda. Mr. President.

The President. The Minority Leader is recognized.

MACEDA AMENDMENTS

Senator Maceda. Mr. President, on page 4, Section 5, subject to style, at the end of the paragraph add the following: NO PROCEEDINGS FOR ADOPTION SHALL BE INITIATED WITHIN SIX (6) MONTHS AFTER THE DEATH OF ONE OR BOTH PARENTS OF THE CHILD.

MACEDA-SANTIAGO AMENDMENT

Senator Santiago. May I suggest the insertion of the words BIOLOGICAL PARENTS, and thereafter I am delighted to accept that amendment.

Senator Maceda. It is so amended, Mr. President.

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

Page 5? [Silence] Page 6?

Senator Maceda. On page 6, Mr. President, I wonder whether we can simplify the amendment by just inserting in

either line 9 or line 18 or both, after the word "ALIEN," insert the phrase WHO IS NOT A FORMER FILIPINO CITIZEN.

Senator Santiago. It is accepted, Mr. President.

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

GONZALES AMENDMENTS

May the Chair offer this amendment? In line 3, delete the semicolon (;) and add the following phrase: OR AFFINITY WITHIN THE FOURTH CIVIL DEGREE.

Senator Santiago. May I please just clarify? It would now read: "...who seeks to adopt a relative by consanguinity OR AFFINITY WITHIN THE FOURTH CIVIL DEGREE." So the limitation on civil degree will apply to both consanguinity and affinity?

The President. That is correct. That is the intention of the amendment.

Senator Santiago. I am delighted to accept the amendment, Mr. President.

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

The same amendment on line 8.

Senator Santiago. It is accepted likewise, Mr. President.

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

Page 7? [Silence] Page 8? [Silence] Page 9?

Senator Santiago. Mr. President, I believe that in an anterior page, Senator Maceda previously indicated that he might want to propose an amendment. I am referring to page 3, Section 4 on Counseling Services.

The Minority Leader previously indicated that he might want to add a provision that the social worker shall be required by the trial court to submit a written certification of advice to the child proposed for adoption on his right to refuse adoption.

Senator Maceda. That would be all right, Mr. President, but I was thinking that it might also be placed specifically in Section 17 on the Consent to Adoption.

Senator Santiago. Then I will certainly agree with the position of that amendment.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. Mr. President, during the interpellation, we had discussed the certification, I believe, on an alien not having committed any crimes, and the distinguished sponsor said it could either be placed in the bill itself or as an addendum to the implementing rules and regulations.

Senator Santiago. That is correct.

Senator Romulo. May I ask which is the preference of the sponsor?

Senator Santiago. I prefer for clarity's sake that it should be inserted as an explicit provision on page 6.

Senator Romulo. I therefore propose, subject to style, that the certification as to the fact that the alien who seeks to adopt has not committed any crime involving moral turpitude, in particular, the abuse of children.

Senator Santiago. The amendment is accepted.

The President. What page and what line?

Senator Santiago. Page 6.

The President. The appropriate place then.

Is there any objection? [*Silence*] There being none, the amendment is approved, subject to refinement in style.

Senator Romulo. The other amendment, Mr. President, refers to the age. We were speaking of a minimum of 16 years. When this was brought out, the sponsor herself saw the possibility of some offenses that may be related to a great disparity in the age.

Therefore, I would like to propose an amendment to plug that possibility and to make the age difference conform to the kind of offenses that we would like to prevent, subject to the sponsor's wording.

Senator Santiago. May I please clarify: Is the gentleman referring to page 4, Section 7?

Senator Romulo. Yes, Mr. President. It says: "In addition, the adopter must be at least sixteen (16) years older..."

We were discussing the possibility that a 16- or an 18-year-old would be adopted by a much older person. For instance, some foreigners who may have other intentions on the child or in the teenager would be able to use this provision. We were talking specifically of Woody Allen and Sun Yi, that sort of thing.

Senator Santiago. May I please inquire what the proposed amendment is?

Senator Romulo. Mr. President, we have to confront that issue. I was thinking that, perhaps, there should be a restriction on the age difference. That a person of a certain age may not adopt one who is, let us say, in her teens. So that when a person is already of sufficient age, perhaps that danger disappears.

What I would like to prevent, Mr. President, is that at a certain age, at the teen-age category, this possibility can occur.

SUSPENSION OF SESSION

Senator Santiago. May we have a one-minute suspension of the session, Mr. President.

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

It was 6:28 p.m.

RESUMPTION OF SESSION

At 6:35 p.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION OF S. NO. 1523

Senator Tatad. While the sponsor and our colleagues are conferring on the proposed amendment, I move that we temporarily suspend consideration of Senate Bill No. 1523.

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

CONFERENCE COMMITTEE REPORT ON S. NO. 1889/H. NO. 1577 (National Museum System)

Senator Tatad. Mr. President, I move that we now consider the Conference Committee Report on the disagreeing provisions of Senate Bill No. 1889 and House Bill No. 1577.

ADOPTION OF P. S. RES. NO. 1147

Senator Tatad. I reiterate my motion for the unanimous adoption of this resolution.

The President. Is there any objection? *[Silence]* There being none, Proposed Senate Resolution No. 1147 is hereby adopted.

BILL ON SECOND READING

S. No. 1523—The Domestic Adoption Act of 1998
(Continuation)

Senator Tatad. Mr. President, I move that we resume consideration of Senate Bill No. 1523, as reported out under Committee Report No. 286.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1523 is now in order.

Senator Tatad. Mr. President, we are still in the period of amendments. I move that the distinguished sponsor, Senator Santiago, be recognized.

The President. Senator Santiago is recognized.

Senator Santiago. May I inquire, please, if the gentleman wishes to propose an amendment on page 4? Because I would like to remind our colleagues that there was an amendment proposed earlier on page 5.

Senator Romulo. Mr. President, after discussing with the sponsor and the officials of the agency involved or in charge of adoption, our amendment will be on Section 11, page 8, line 2. This amendment addresses the issue to avoid or to remove as much as possible the idea of when the adoptive parent would be able to take advantage of the age of the one to be adopted as in some celebrated and other cases that we are familiar with. Therefore, under line 2, Section 11 of page 8...

Senator Santiago. May I just propose this anterior amendment, Mr. President, not to propose it but to enter into the *Record*—this anterior amendment which I have previously accepted in principle from the Minority Leader. It is on page 5, paragraph 3. This refers to Section 7 which begins on page 4. Section 7 has three subparagraphs. On page 5, I refer to subparagraph 3, "when the spouses are legally separated from each other."

I would just like to enter into the *Record* that this sentence should now read: WHEN THE SPOUSES ARE LEGALLY SEPARATED OR WHEN THE MARRIAGE HAS BEEN

DISSOLVED BY ANNULMENT OR BY A DECLARATION OF NULLITY."

The gentleman may now proceed if he wishes.

ROMULO AMENDMENT

Senator Romulo. Yes, Mr. President. As I said, the amendment that I propose to make, in consultation with the sponsor and the agencies in charge of adoption in order to meet the situation that I have just cited, would be on page 8, line 2, Section 11. The amendment would add the following sentence: FURTHER THE CASE STUDY OF THE SOCIAL WORKER ON THE ADOPTIVE PARENT SHALL ASCERTAIN THE GENUINE INTENTION OF THE ADOPTORS AND THAT THE ADOPTION IS IN THE BEST INTEREST OF THE CHILD.

Senator Santiago. It is accepted, Mr. President, subject to style.

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

Are there further individual amendments on page 8? *[Silence]* On page 9. *[Silence]* On page 10. *[Silence]* On page 11. *[Silence]* On page 12. *[Silence]* On page 13. *[Silence]* On page 14. *[Silence]* On page 15 *[Silence]*.

Senator Maceda. Mr. President.

The President. The Minority Leader is recognized.

Senator Maceda. Excuse me, Mr. President, I was talking to someone.

The President. The gentleman may proceed.

Senator Maceda. In Section 17, page 10, subject to style, a new paragraph in line 17.

IN CASE THE PERSON TO BE ADOPTED IS TEN (10) YEARS OF AGE OR OVER BUT BELOW TWENTY-ONE (21) YEARS OLD, IT SHALL BE THE DUTY...

POINT OF ORDER OF SENATOR SANTIAGO
(Instruction for Proper Decorum in the Session Hall)

Senator Santiago. Point of order, Mr. President. May I please request for the Senate President to give instruction to the page to counsel the gentleman in the Gallery to lower his voice and all other persons similarly situated when using the cellular

telephone in order that the proceedings on the Session Hall will not be disrupted.

The President. The Sergeant-at-Arms is hereby directed to order proper decorum inside the Session Hall.

Senator Maceda. If I may continue, Mr. President.

The President. Yes, the Minority Leader may proceed.

MACEDA AMENDMENT

Senator Maceda. On page 10, line 17, a new paragraph is inserted, subject to style.

IN CASE THE PERSON TO BE ADOPTED IS TEN (10) YEARS OF AGE OR OVER AND BELOW TWENTY-ONE (21) YEARS OLD, IT SHALL BE THE DUTY OF THE SOCIAL WORKER OR OF THE DSWD TO ADVISE THE PERSON TO BE ADOPTED OF HIS RIGHT TO AGREE OR DISAGREE TO THE PROPOSED ADOPTION AND SHALL CORRESPONDINGLY CERTIFY TO THE COURT IN THE PROPER PAPERS THAT THIS REQUIREMENT HAS BEEN COMPLIED WITH.

Senator Santiago. In other words, that written proof shall be submitted to the court of this circumstance that is now being added.

Senator Maceda. That is correct, Mr. President.

Senator Santiago. It is accepted, Mr. President.

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

The Majority Leader is recognized.

Senator Tatad. There being no further individual amendments, I move that the period of individual amendments be closed.

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

APPROVAL OF S. NO. 1523 ON SECOND READING

Senator Tatad. Mr. President, I move that we vote on Second Reading on Senate Bill No. 1523, as amended.

The President. Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on Senate Bill No. 1523, as amended.

As many as are in favor of the bill, say *aye*.

Several Members. *Aye.*

The President. As many as are against the bill, say *noy*.
[Silence]

Senate Bill No. 1523, as amended, is approved on Second Reading.

Senator Tatad. Mr. President, this is a certified measure.

I ask the Secretary to read the certification.

The President. The Secretary will please read the certification.

The Secretary.

February 3, 1998

HON. NEPTALI A. GONZALES
Senate President
Senate, Manila

Dear Senate President Gonzales:

Pursuant to the provision of Section 26 (2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate bill No. 1523 entitled

AN ACT ESTABLISHING THE RULES TO GOVERN THE ADOPTION OF FILIPINO CHILDREN IN THE PHILIPPINES,

to meet the public emergency consisting of the urgent need to correct the existing deficiencies in the present adoption laws and give domestic adoption the same priority and importance given to intercountry adoption.

Best wishes.

(Sgd.) FIDEL V. RAMOS

cc: Hon. Jose de Venecia Jr.
Speaker
House of Representatives
Quezon City

BILL ON THIRD READING

S. No. 1523—Establishing the Rules to Govern the Adoption of Filipino Children

Senator Tatad. Mr. President, I move that we vote on Third Reading on Senate Bill No. 1523.

The President. Is there any objection? [Silence] There being none, voting on Third Reading on Senate Bill No. 1523 is now in order.

The Secretary will please read only the title of the bill.

The Secretary. Senate Bill No. 1523, entitled

AN ACT ESTABLISHING THE RULES TO GOVERN THE ADOPTION OF FILIPINO CHILDREN IN THE PHILIPPINES

The President. We shall now vote on the bill and the Secretary will call the roll.

The Secretary. Senators

- Alvarez Yes
- Angara Yes
- Coseteng
- Drilon
- Enrile
- Fernan Yes
- Flavier Yes
- Herrera Yes
- Honasan
- Macapagal Yes
- Maceda Yes
- Magsaysay Jr.
- Mercado Yes
- Ople
- Osmeña III
- Revilla
- Roco
- Romulo Yes
- Santiago Yes
- Shahani Yes
- Sotto III
- Tatad Yes
- Webb Yes
- The President Yes

APPROVAL OF S. NO. 1523 ON THIRD READING

The President. With 14 affirmative votes, no negative vote, and no abstention, Senate Bill No. 1523 is approved on Third Reading.

Senator Tatad. Mr. President, with the consent of the Chamber, I ask...

Senator Maceda. Mr. President.

The President. The Minority Leader is recognized.

MANIFESTATION OF SENATOR MACEDA (Correction on Age of Majority on S. No. 1523)

Senator Maceda. Yes, Mr. President, just to correct a typographical error or a mental typographical error.

The age of majority is 18. So, in the amendment that I had inserted earlier, the intention really was to propose 18, instead of 21.

Senator Tatad. I so move, Mr. President.

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

Senator Tatad. Mr. President, with the consent of the Chamber, I ask that the Additional Reference of Business for today's session, pertaining to messages from the Office of the President and seven committee reports consisting of six pages, be considered as read, without prejudice to their full texts being inserted in the *Record* and *Journal*, respectively.

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

Therefore, the reading of the Calendar for Ordinary Business dated February 5, 1998 and the Calendar for Special Orders of the same date is hereby waived, without prejudice to the insertion in the records of their contents.

The following is the Additional Reference of Business of February 5, 1998:

ADDITIONAL REFERENCE OF BUSINESS

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

The Secretary.

February 5, 1998

Honorable NEPTALI A. GONZALES
Senate President
Senate, Pasay City

Dear Senate President Gonzales:

Pursuant to the provision of Section 26(2), Article VI of the 1987 Constitution, I hereby certify to the necessity

Therefore, Mr. President, we present for consideration and approval by this august Body, Committee Report No. 974 of the Committee on Local Government on House Bill No. 5446.

Thank you, Mr. President.

The President. The Majority Leader is recognized.

Senator Mercado. Mr. President, there being no interpellations, I move that the period of interpellations be closed.

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

Senator Mercado. There being no committee amendments, I move that the period of committee amendments be closed.

The President. Is there any objection? *[Silence]* There being none, the period of committee amendments is closed.

Senator Mercado. There being no individual amendments, I move that the period of individual amendments be closed.

The President. Is there any objection? *[Silence]* There being none, the period of individual amendments is closed.

APPROVAL OF H. NO. 5446 ON SECOND READING

Senator Tatad. Mr. President, I move that we vote on Second Reading on House Bill No. 5446.

The President. Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on House Bill No. 5446.

As many as are in favor of the bill, say *aye*.

Several Members. *Aye*.

The President. As many as are against the bill, say *nay*.
[Silence]

House Bill No. 5446 is approved on Second Reading.

SUSPENSION OF CONSIDERATION OF H. NO. 5446

Senator Mercado. Mr. President, I move that we suspend consideration of House Bill No. 5446.

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

SUSPENSION OF SESSION

Senator Mercado. Mr. President, may I ask for a one-minute suspension of the session.

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

It was 5:21 p.m.

RESUMPTION OF SESSION

At 5:22 p.m., the session was resumed.

The President. The session is resumed.

CONFERENCE COMMITTEE REPORT ON S. NO. 1523/H. NO. 10378 (Domestic Adoption Act)

Senator Mercado. Mr. President, I move that we consider the Conference Committee Report on the disagreeing provisions of Senate Bill No. 1523 and House Bill No. 10378, the Domestic Adoption Act. I ask that Sen. Miriam Defensor Santiago be recognized.

The President. Senator Santiago is recognized.

REPORT OF SENATOR SANTIAGO

Senator Santiago. Thank you, Mr. President.

The Joint Explanation in written version of the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1523 and House Bill No. 10378, otherwise known as the Domestic Adoption Act, has been distributed to our colleagues. I shall now proceed to enter it into the *Record*.

The Conference Committee on the disagreeing provisions of Senate Bill No. 1523 and House Bill No. 10378, after having met and fully discussed the subject matter in a conference, hereby report to their respective Houses the following, that:

The conferees agreed to use the Senate version as the working draft of the conference;

Section 1 of the Senate version was adopted as Section 1 of the reconciled version;

Section 2 of both Senate and House versions were consolidated and modified as Section 2;

Section 3 of both the Senate and House versions were consolidated and adopted as Section 3 of the reconciled version;

Section 4 of the Senate version was adopted as Section 4 of the reconciled version;

Section 6 of the Senate version was modified and was adopted as Section 5 of the reconciled version;

Another provision was inserted and it is now Section 6 of the reconciled version;

Section 7 of the Senate version and Section 4 of the House version were consolidated and adopted as Section 7 of the reconciled version;

Section 8 of the Senate version and Section 5 of the House version were consolidated and adopted as Section 8 of the reconciled version;

Section 17 of the Senate version and Section 6 of the House version were consolidated and adopted as Section 9 of the reconciled version;

Section 5 of the Senate version and Section 7(a) of the House version were consolidated and modified as Section 10 of the reconciled version;

Section 11 of the Senate version and Section 7(b) of the House version were consolidated and modified as Section 11 of the reconciled version.

Section 7(c) of the House version was adopted as Section 12 of the reconciled version.

Section 17(d) of the House version was adopted as Section 13 of the reconciled version.

Section 17(e) of the House version was adopted as Section 14 of the reconciled version.

The first paragraph of Section 15 of the Senate version and second paragraph of Section 7(e) of the House version were consolidated and adopted as Section 15 of the reconciled version.

Section 18(2) of the Senate version was modified and adopted as Section 16 of the reconciled version.

Section 8(b) of the House version was adopted as Section 17 of the reconciled version.

Section 8(c) of the House version was adopted as Section 18 of the reconciled version.

Section 21 of the Senate version and Section 9 of the House

version were consolidated and modified as Section 19 of the reconciled version.

Section 9 of the House version was modified and adopted as Section 20 of the reconciled version.

Section 24 of the Senate version and Sections 10 and 12 of the House version were consolidated and modified as Section 21.

Section 26 of the Senate version was adopted as Section 22 of the reconciled version.

Section 11 of the House version was adopted as Section 23 of the reconciled version.

Section 27 of the Senate version and Section 13 of the House version were consolidated and adopted as Section 24 of the reconciled version.

Section 14 of the House version was adopted as Section 25 of the reconciled version.

Section 26 of the reconciled version is the standard Repealing Clause.

Section 27 of the reconciled version is the standard Separability Clause.

Section 28 of the reconciled version is the standard Effectivity Clause.

The conferees agreed to adopt the title of the Senate version as the title of the reconciled version to read as follows:

"AN ACT ESTABLISHING THE RULES AND
POLICIES ON THE DOMESTIC ADOPTION
OF FILIPINO CHILDREN AND FOR OTHER
PURPOSES."

Mr. President, the conference committee, having met and discussed this bill in full and free conference, has agreed and hereby recommend, on the part of the Senate panel to the Senate that Senate Bill No. 1523 in consolidation with House Bill No. 10378 be approved in accordance with the copy of the bill as reconciled and approved by the conference committee and as distributed to our colleagues just a few minutes ago.

The President. The Majority Leader is recognized.

APPROVAL OF CONFERENCE COMMITTEE REPORT
ONS. NO. 1523/H. NO. 10378

Senator Mercado. Mr. President, I move for the approval of the Bicameral Conference Committee Report.

The President. Is there any objection to the approval and adoption of the Bicameral Conference Committee Report on the disagreeing provisions of Senate Bill No. 1523 and House Bill No. 10378? [*Silence*] There being none, the same is hereby approved and adopted.

The following is the whole text of the Conference Committee Report:

CONFERENCE COMMITTEE REPORT

The Conference Committee on the disagreeing provisions of Senate Bill No. 1523, entitled

AN ACT ESTABLISHING THE RULES AND POLICIES ON THE DOMESTIC ADOPTION OF FILIPINO CHILDREN AND FOR OTHER PURPOSES,

having met and discussed the subject matter in full and free conference, has agreed and hereby recommends to their respective Houses that Senate Bill No. 1523 in consolidation with House Bill No. 10378 be approved in accordance with the attached copy of the bill as reconciled and approved by the conferees:

CONFEREES ON THE PART OF THE SENATE:

(Sgd.) SEN. MIRIAM D. SANTIAGO
Chairperson

(Sgd.) SEN. LETICIA RAMOS-SHAHANI

(Sgd.) SEN. RAUL S. ROCO

SEN. ANNA DOMINIQUE M.L. COSETENG

CONFEREES ON THE PART OF THE
HOUSE OF REPRESENTATIVES:

(Sgd.) REP. ANGEL M. CARLOTO
Chairperson

(Sgd.) REP. JOSE CARLOS V. LACSON

REP. MARIO S. TY

(Sgd.) REP. BELMA A. CABILAO

(Sgd.) REP. TESSIE AQUINO-ORETA

(Sgd.) REP. LEONOR INES LUCIANO

AN ACT ESTABLISHING THE RULES AND POLICIES ON THE DOMESTIC ADOPTION OF FILIPINO CHILDREN AND FOR OTHER PURPOSES

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

ARTICLE I
GENERAL PROVISIONS

SECTION 1. *Short Title.* - This Act shall be known as the "Domestic Adoption Act of 1998."

SEC. 2. *Declaration of Policies.* -

a) It is hereby declared the policy of the State to ensure that every child remains under the care and custody of his/her parent(s) and be provided with love, care, understanding and security towards the full and harmonious development of his/her personality. Only when such efforts prove insufficient and no appropriate placement or adoption within the child's extended family is available shall adoption by an unrelated person be considered.

(b) In all matters relating to the care, custody and adoption of a child, his/her interest shall be the paramount consideration in accordance with the tenets set forth in the United Nations (UN) Convention on the Rights of the Child; UN Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children with Special Reference to Foster Placement and Adoption, Nationally and Internationally; and the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. Toward this end, the State shall provide alternative protection and assistance through foster care or adoption for every child who is neglected, orphaned, or abandoned.

(c) It shall also be a State policy to:

- (i) Safeguard the biological parent(s) from making hurried decisions to relinquish his/her parental authority over his/her child;
- (ii) Prevent the child from unnecessary separation from his/her biological parent(s);
- (iii) Protect adoptive parent(s) from attempts to disturb

his/her parental authority and custody over his/her adopted child.

Any voluntary or involuntary termination of parental authority shall be administratively or judicially declared so as to establish the status of the child as "legally available for adoption" and his/her custody transferred to the Department of Social Welfare and Development or to any duly licensed and accredited child-placing or child-caring agency, which entity shall be authorized to take steps for the permanent placement of the child;

- (iv) Conduct public information and educational campaigns to promote a positive environment for adoption;
- (v) Ensure that sufficient capacity exists within government and private sector agencies to handle adoption inquiries, process domestic adoption applications, and offer adoption-related services including, but not limited to, parent preparation and post-adoption education and counseling; and
- (vi) Encourage domestic adoption so as to preserve the child's identity and culture in his/her native land, and only when this is not available shall intercountry adoption be considered as a last resort.

SEC. 3. *Definition of Terms.* - For purposes of this Act, the following terms shall be defined as:

(a) "Child" is a person below eighteen (18) years of age.

(b) "A child legally available for adoption" refers to a child who has been voluntarily or involuntarily committed to the Department or to a duly licensed and accredited child-placing or child-caring agency, free of the parental authority of his/her biological parent(s) or guardian or adopter(s) in case of rescission of adoption.

(c) "Voluntarily committed child" is one whose parent(s) knowingly and willingly relinquishes parental authority to the Department.

(d) "Involuntarily committed child" is one whose parent(s), known or unknown, has been permanently and judicially deprived of parental authority due to abandonment; substantial, continuous, or repeated neglect; abuse; or incompetence to discharge parental responsibilities.

(e) "Abandoned child" refers to one who has no proper parental care or guardianship or whose parent(s) has deserted him/her for a period of at least six (6) continuous months and has been judicially declared as such.

(f) "Supervised trial custody" is a period of time within which a social worker oversees the adjustment and emotional readiness of both adopter(s) and adoptee in stabilizing their filial relationship.

(g) "Department" refers to the Department of Social Welfare and Development.

(h) "Child-placing agency" is a duly licensed and accredited agency by the Department to provide comprehensive child welfare services including, but not limited to, receiving applications for adoption, evaluating the prospective adoptive parents, and preparing the adoption home study.

i) "Child-caring agency" is a duly licensed and accredited agency by the Department that provides twenty-four (24)-hour residential care services for abandoned, orphaned, neglected, or voluntarily committed children.

(j) "Simulation of birth" is the tampering of the civil registry making it appear in the birth records that a certain child was born to a person who is not his/her biological mother, causing such child to lose his/her true identity and status.

ARTICLE II PRE-ADOPTION SERVICES

SEC. 4. *Counseling Services.* - The Department shall provide the services of licensed social workers to the following:

(a) Biological Parent(s) - Counseling shall be provided to the parent(s) before and after the birth of his/her child. No binding commitment to an adoption plan shall be permitted before the birth of his/her child. A period of six (6) months shall be allowed for the biological parent(s) to reconsider any decision to relinquish his/her child for adoption before the decision becomes irrevocable. Counseling and rehabilitation services shall also be offered to the biological parent(s) after he/she has relinquished his/her child for adoption. Steps shall be taken by the Department to ensure that no hurried decisions are made and all alternatives for the child's future and the implications of each alternative have been provided.

(b) Prospective Adoptive Parent(s) - Counseling sessions, adoption fora and seminars, among others, shall be provided to prospective adoptive parent(s) to resolve possible adoption issues and to prepare him/her for effective parenting.

(c) Prospective Adoptee - Counseling sessions shall be provided to ensure that he/she understands the nature and effects of adoption and is able to express his/her views on adoption in accordance with his/her age and level of maturity.

SEC. 5. *Location of Unknown parent(s)*. - it shall be the duty of the Department or the child-placing or child-caring agency which has custody of the child to exert all efforts to locate his/her unknown biological parent(s). If such efforts fail, the child shall be registered as a foundling and subsequently be the subject of legal proceedings where he/she shall be declared abandoned.

SEC. 6. *Support Services*. - The Department shall develop a pre-adoption program which shall include, among others, the above mentioned services.

ARTICLE III ELIGIBILITY

SEC. 7. *Who May Adopt*. - The following may adopt:

(a) Any Filipino citizen of legal age, in possession of full civil capacity and legal rights, of good moral character, has not been convicted of any crime involving moral turpitude, emotionally and psychologically capable of caring for children, at least sixteen (16) years older than the adoptee, and who is in a position to support and care for his/her children in keeping with the means of the family. The requirement of sixteen (16)-year difference between the age of the adopter and adoptee may be waived when the adopter is the biological parent of the adoptee, or is the spouse of the adoptee's parent;

(b) Any alien possessing the same qualifications as above stated for Filipino nationals; *Provided*, That his/her country has diplomatic relations with the Republic of the Philippines, that he/she has been living in the Philippines for at least three (3) continuous years prior to the filing of the application for adoption and maintains such residence until the adoption decree is entered, that he/she has been certified by his/her diplomatic or consular office or any appropriate government agency that he/she has the legal capacity to adopt in his/her country, and that his/her government allows the

adoptee to enter his/her country as his/her adopted son/daughter: *Provided, further*, That the requirements on residency and certification of the alien's qualification to adopt in his/her country may be waived for the following:

- (i) a former Filipino citizen who seeks to adopt a relative within the fourth (4th) degree of consanguinity or affinity; or
- (ii) one who seeks to adopt the legitimate son/daughter of his/her Filipino spouse; or
- (iii) one who is married to a Filipino citizen and seeks to adopt jointly with his/her spouse a relative within the fourth (4th) degree of consanguinity or affinity of the Filipino spouse; or

(c) The guardian with respect to the ward after the termination of the guardianship and clearance of his/her financial accountabilities.

Husband and wife shall jointly adopt, except in the following cases:

- (i) if one spouse seeks to adopt the legitimate son/daughter of the other; or
- (ii) if one spouse seeks to adopt his/her own illegitimate son/daughter: *Provided, however*, That the other spouse has signified his/her consent thereto; or
- (iii) if the spouses are legally separated from each other.

In case husband and wife jointly adopt, or one spouse adopts the illegitimate son/daughter of the other, joint parental authority shall be exercised by the spouses.

SEC. 8. *Who May Be Adopted*. - The following may be adopted:

(a) Any person below eighteen (18) years of age who has been administratively or judicially declared available for adoption;

(b) The legitimate son/daughter of one spouse by the other spouse;

(c) An illegitimate son/daughter by a qualified adopter to improve his/her status to that of legitimacy;

(d) A person of legal age if, prior to the adoption,

said person has been consistently considered and treated by the adopter(s) as his/her own child since minority;

(e) A child whose adoption has been previously rescinded; or

(f) A child whose biological or adoptive parent(s) has died, *Provided*, That no proceedings shall be initiated within six (6) months from the time of death of said parent(s).

SEC. 9. *Whose Consent in Necessary to the Adoption.* After being properly counseled and informed of his/her right to give or withhold his/her approval of the adoption, the written consent of the following to the adoption is hereby required:

(a) The adoptee, if ten (10) years of age or over;

(b) The biological parent(s) of the child, if known, or the legal guardian, or the proper government instrumentality which has legal custody of the child;

(c) The legitimate and adopted sons/daughters, ten (10) years of age or over, of the adopter(s) and adoptee, if any;

(d) The illegitimate sons/daughters, ten (10) years of age or over, of the adopter is living with said adopter and the latter's spouse, if any; and

(e) The spouse, if any, of the person adopting or to be adopted.

ARTICLE IV PROCEDURE

SEC. 10. *Hurried Decisions.* - In all proceedings for adoption, the court shall require proof that the biological parent(s) has been properly counseled to prevent him/her from making hurried decisions caused by strain or anxiety to give up the child, and to sustain that all measures to strengthen the family have been exhausted and that any prolonged stay of the child in his/her own home will be inimical to his/her welfare and interest.

SEC. 11. *Case Study.* - No petition for adoption shall be set for hearing unless a licensed social worker of the Department, the social service office of the local government unit, or any child-placing or child-caring

agency has made a case study of the adoptee, his/her biological parent(s), as well as the adopter(s), and has submitted the report and recommendations on the matter to the court hearing such petition.

At the time of preparation of the adoptee's case study, the concerned social worker shall confirm with the Civil Registry the real identity and registered name of adoptee. If the birth of the adoptee was not registered with the Civil Registry, it shall be the responsibility of the concerned social worker to ensure that the adoptee is registered.

The case study on the adoptee shall establish that he/she is legally available for adoption and that the documents to support this fact are valid and authentic. Further, the case study of the adopter(s) shall ascertain his/her genuine intentions and that the adoption is in the best interest of the child.

The Department shall intervene on behalf of the adoptee if it finds, after the conduct of the case studies, that the petition should be denied. The case studies and other relevant documents and records pertaining to the adoptee and the adoption shall be preserved by the Department.

SEC. 12. *Supervised Trial Custody.* - No petition for adoption shall be finally granted until the adopter(s) has been given by the court a supervised trial custody period for at least six (6) months within which the parties are expected to adjust psychologically and emotionally to each other and establish a bonding relationship. During said period, temporary parental authority shall be vested in the adopter(s).

The court may *motu proprio* or upon motion of any party reduce the trial period if it finds the same to be in the best interest of the adoptee, stating the reasons for the reduction of the period. However, for alien adopter(s), he/she must complete the six (6)-month trial custody except for those enumerated in Sec. 7 (b)(i)(ii)(iii).

If the child is below seven (7) years of age and is placed with the prospective adopter(s) through a pre-adoption placement authority issued by the Department, the prospective adopter(s) shall enjoy all the benefits to which biological parent(s) is entitled from the date the adoptee is placed with the prospective adopter(s).

SEC. 13. *Decree of adoption.* - If, after the

publication of the order of hearing has been complied with, and no opposition has been interposed to the petition, and after consideration of the case studies, the qualifications of the adopter(s), trial custody report and the evidence submitted, the court is convinced that the petitioners are qualified to adopt, and that the adoption would redound to the best interest of the adoptee, a decree of adoption shall be entered which shall be effective as of the date the original petition was filed. This provision shall also apply in case the petitioner(s) dies before the issuance of the decree of adoption to protect the interest of the adoptee. The decree shall state the name by which the child is to be known.

SEC. 14. *Civil Registry Record.* - An amended certificate of birth shall be issued by the Civil Registry, as required by the Rules of Court, attesting to the fact that the adoptee is the child of the adopter(s) by being registered with his/her surname. The original certificate of birth shall be stamped "cancelled" with the annotation of the issuance of an amended birth certificate in its place and shall be sealed in the civil registry records. The new birth certificate to be issued to the adoptee shall not bear any notation that it is an amended issue.

SEC. 15. *Confidential Nature of Proceedings and Records.* - All hearings in adoption cases shall be confidential and shall not be open to the public. All records, books, and papers relating to the adoption cases in the files of the court, the Department, or any other agency or institution participating in the adoption proceedings shall be kept strictly confidential.

If the court finds that the disclosure of the information to a third person is necessary for purposes connected with or arising out of the adoption and will be for the best interest of the adoptee, the court may merit the necessary information to be released, restricting the purposes for which it may be used.

ARTICLE V EFFECTS OF ADOPTION

SEC. 16. *Parental Authority.* - Except in cases where the biological parent is the spouse of the adopter, all legal ties between the biological parent(s) and the adoptee shall be severed and the same shall then be vested on the adopter(s).

SEC. 17. *Legitimacy.* - The adoptee shall be considered the legitimate son/daughter of the adopter(s) for all intents and purposes and as such is entitled to all

the rights and obligations provided by law to legitimate sons/daughters born to them without discrimination of any kind. To this end, the adoptee is entitled to love, guidance, and support in keeping with the means of the family.

SEC. 18. *Succession.* - In legal and intestate succession, the adopter(s) and the adoptee shall have reciprocal rights of succession without distinction from legitimate filiation. However, if the adoptee and his/her biological parent(s) had left a will, the law on testamentary succession shall govern.

ARTICLE VI RESCISSION OF ADOPTION

SEC. 19. *Grounds for Rescission of Adoption.* - Upon petition of the adoptee, with the assistance of the Department if a minor or if over eighteen (18) years of age but is incapacitated, as guardian/counsel, the adoption maybe rescinded on any of the following grounds committed by the adopter(s): (a) repeated physical and verbal maltreatment by the adopter(s) despite having undergone counseling; (b) attempt on the life of the adoptee; (c) sexual assault or violence; or (d) abandonment and failure to comply with parental obligations.

Adoption, being in the best interest of the child, shall not be subject to rescission by the adopter(s). However, the adopter(s) may disinherit the adoptee for causes provided in Article 919 of the Civil Code.

SEC. 20. *Effects of Rescission.* - If the petition is granted, the parental authority of the adoptee's biological parent(s), if known, or the legal custody of the Department shall be restored if the adoptee is still a minor or incapacitated. The reciprocal rights and obligations of the adopter(s) and the adoptee to each other shall be extinguished.

The court shall order the Civil Registrar to cancel the amended certificate of birth of the adoptee and restore his/her original birth certificate.

Successional rights shall revert to its status prior to adoption, but only as of the date of judgment of judicial rescission. Vested rights acquired prior to judicial rescission shall be respected.

All the foregoing effects of rescission of adoption shall be without prejudice to the penalties imposable

under the Penal Code if the criminal acts are properly proven.

ARTICLE VII VIOLATIONS AND PENALTIES

SEC. 21. *Violation and Penalties.* -

(a) The penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and/or a fine of not less than Fifty thousand pesos (P50,000.00), but not more than Two hundred thousand pesos (P200,000.00) at the discretion of the court shall be imposed on any person who shall commit any of the following acts:

- (i) obtaining consent for an adoption through coercion, undue influence, fraud, improper material inducement, or other similar acts;
- (ii) non-compliance with the procedures and safeguards provided by the law for adoption; or
- (iii) subjecting or exposing the child to be adopted to danger, abuse, or exploitation.

(b) Any person who shall cause the fictitious registration of the birth of a child under the name(s) of a person(s) who is not his/her biological parent(s) shall be guilty of simulation of birth, and shall be punished by *prision mayor* in its medium period and a fine not exceeding Fifty thousand pesos (P50,000.00).

Any physician or nurse or hospital personnel who, in violation of his/her oath of office, shall cooperate in the execution of the abovementioned crime shall suffer the penalties herein prescribed and also the penalty of permanent disqualification.

Any person who shall violate established regulations relating to the confidentiality and integrity of records, documents, and communications of adoption applications, cases, and processes shall suffer the penalty of imprisonment ranging from one (1) year and one (1) day to two (2) years, and/or a fine of not less than Five thousand pesos (P5,000.00) but not more than Ten thousand pesos (P10,000.00), at the discretion of the court.

A penalty lower by two (2) degrees than that prescribed for the consummated offense under this Article shall be imposed upon the principals of the attempt to commit any of the acts herein enumerated.

Acts punishable under this Article, when committed by a syndicate or where it involves two (2) or more children shall be considered as an offense constituting child trafficking and shall merit the penalty of *reclusion perpetua*.

Acts punishable under this Article are deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any of the unlawful acts defined under this Article. Penalties as are herein provided, shall be in addition to any other penalties which may be imposed for the same acts punishable under other laws, ordinances, executive orders, and proclamations.

When the offender is an alien, he/she shall be deported immediately after service of sentence and perpetually excluded from entry to the country.

Any government official, employee or functionary who shall be found guilty of violating any of the provisions of this act, or who shall conspire with private individuals shall, in addition to the above-prescribed penalties, be penalized in accordance with existing civil service laws, rules and regulations: *Provided*, That upon the filing of a case, either administrative or criminal, said government official, employee, or functionary concerned shall automatically suffer suspension until the resolution of the case.

SEC. 22. *Rectification of Simulated Births.* - A person who has, prior to the effectivity of this Act, simulated the birth of a child shall not be punished for such act: *Provided*, That the simulation of birth was made for the best interest of the child and that he/she has been consistently considered and treated by that person as his/her own son/daughter: *Provided, further*, That the application for correction of the birth registration and petition for adoption shall be filed within five (5) years from the effectivity of this Act and completed thereafter: *Provided, finally*, That such person complies with the procedure as specified in Article IV of this Act and other requirements as determined by the Department.

ARTICLE VIII FINAL PROVISIONS

SEC. 23. *Adoption Resource and Referral Office.*
- There shall be established an Adoption Resource and Referral Office under the Department with the

following functions: (a) monitor the existence, number, and flow of children legally available for adoption and prospective adopter(s) so as to facilitate their matching; (b) maintain a nationwide information and educational campaign on domestic adoption; (c) keep records of adoption proceedings; (d) generate resources to help child-caring and child-placing agencies and foster homes maintain viability; and (e) do policy research in collaboration with the Intercountry Adoption Board and other concerned agencies. The office shall be manned by adoption experts from the public and private sectors.

SEC. 24. Implementing Rules and Regulations. - Within six (6) months from the promulgation of this Act, the Department, with the Council for the Welfare of Children, the Office of Civil Registry General, the Department of Justice, Office of the Solicitor General and two (2) private individuals representing child-placing and child-caring agencies shall formulate the necessary guidelines to make the provisions of this Act operative.

SEC. 25. Appropriations. - Such sum as may be necessary for the implementation of the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

SEC. 26. Repealing Clause. - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule, or regulation contrary to, or inconsistent with the provisions of this Act is hereby repealed, modified, or amended accordingly.

SEC. 27. Separability Clause. - If any provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby remain valid and subsisting.

SEC. 28. Effectivity Clause. - This Act shall take effect fifteen (15) days following its complete publication in any newspaper of general circulation or in the *Official Gazette*.

Approved,

SUSPENSION OF SESSION

Senator Mercado. Mr. President, may I ask for a suspension of the session.

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

It was 5:28 p.m.

RESUMPTION OF SESSION

At 5:31 p.m., the session was resumed.

The President. The session is resumed.

BILL ON SECOND READING
H. No. 10114—Establishing Misamis Occidental State College

Senator Mercado. Mr. President, I move that we consider House Bill No. 10114 as reported out under Committee Report No. 991.

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

Consideration of House Bill No. 10114 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. House Bill No. 10114, entitled

AN ACT ESTABLISHING THE MISAMIS OCCIDENTAL STATE COLLEGE, INTEGRATING THEREWITH THE TANGUB AGRO-INDUSTRIAL SCHOOL (TANAIS) AND THE GOV. ALFONSOD TAN MEMORIAL COLLEGE (GADTMC) IN THE CITY OF TANGUB, PROVINCE OF MISAMIS OCCIDENTAL, AND THE MINDANAO POLYTECHNIC STATE COLLEGE-OROQUIETA CITY CAMPUS, OROQUIETA AGRO-INDUSTRIAL SCHOOL AND THE MINDANAO POLYTECHNIC STATE COLLEGE-PANAON COLLEGE OF FISHERIES, ALL IN THE PROVINCE OF MISAMIS OCCIDENTAL, AND APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

The following is the whole text of the bill:

House Bill No. 10114

AN ACT ESTABLISHING THE MISAMIS