

## RECORD OF THE SENATE

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WEDNESDAY, DECEMBER 20, 2000

### RESUMPTION OF THE SESSION

*At 10:01 a.m., the session was resumed with the Senate President, Hon. Aquilino Q. Pimentel Jr., presiding.*

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

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

**The President.** The Minority Leader, Sen. Teofisto T. Guingona Jr., is recognized.

**Senator Guingona.** Thank you, Mr. President.

I understand that the bicameral conference for the power bill will be held tomorrow and Friday.

Mr. President, with due respect to the distinguished chairman of the Committee on Energy and the other members, we are constrained to object to the holding of the bicameral conference meeting that is scheduled for tomorrow and subsequent meetings because, first, during the December 5 bicameral conference, the initial discussions, I understand, were that the House version, which is a complete version of the House power bill, would be used as a basis for the bicameral conference report.

Second, the argument is that there is no need for the Senate to complete its series of power bills because, if we will recall, there were five bills for the Senate.

**The President.** That is right.

**Senator Guingona.** But during the initial conference in July, the House of Representatives panel said, "How can we have a bicameral conference if yours is divided into five bills and ours is consolidated?" So, we agreed to consolidate. And the agreement then was to meet only after all the bills in the Senate shall have been enacted. That is why we said, "See you in September." That was in July.

But because of events, we could not complete... And up to now, the Senate bills are not yet completed, specially the stranded assets and liabilities.

The bicameral proponents state that the AFMA bill and the PNP bill are precedents. Therefore, even if the Senate has not yet finished its complete version of the last bill, then we can already go into bicameral conference.

Mr. President, this is contrary to the usual practice and contrary to the gentleman's agreement that all the Senate versions shall first be completed before the bicameral is called for a meeting. In substance the stranded assets and liabilities or NPC bill is the major linchpin of the Senate version of the bill. We have to know how much are the liabilities; we need to know how much is the stranded assets and costs which may be passed on to the people. Are we going to pass on a universal levy without knowing how much, without knowing to what extent the stranded costs will assume?

This is unfair, Mr. President. This will, in effect, be delegating to the NPC the power to decide the assets, the power to decide the stranded costs and liabilities. I do not think that that is sound legislation. And this goes into billions of pesos and dollars.

And so, Mr. President, I would like to respectfully register our objection to the future bicameral meetings, specifically those scheduled for tomorrow on a continuing objection for the reasons given.

Thank you very much.

**Senator Tatad.** Mr. President.

**The President.** The Majority Leader is recognized.

**Senator Tatad.** Mr. President, may we hear from the distinguished chairman of the Committee on Energy, Sen. John H. Osmeña.

**The President.** Sen. John Reiner Osmeña is recognized.

**Senator J. Osmeña.** Mr. President, that is not the first time that we hear those arguments on the floor. We heard them many times over the last three years. We last heard them in May. We are now in an ongoing bicameral conference to try to finally meld together what was approved in the Senate and what was approved in the House of Representatives. There is one thing I learned from the impeachment trials, and it is the word "premature." [Laughter]

So, Mr. President, the remarks of the distinguished Minority Leader are premature and should be made when he explains his vote against the ratification of the Bicameral Conference Committee Report.

Thank you, Mr. President.

**Senator Tatad.** Mr. President.

**The President.** The Majority Leader is recognized.

**Senator Tatad.** Thank you very much, Mr. President. Today is the 50th anniversary of the Blue Ribbon Committee.

**Senator Enrile.** Mr. President, with the permission of the distinguished senator from Bicol.

I thought he was going to propose the Blue Ribbon Room as the Roco Room. *[Laughter]* But I think that is premature because he is still alive, he is still here.

I would suggest that we convert the present Tañada Room into the Blue Ribbon Room.

**The President.** All right.

**Senator Roco.** All right, so that we elevate the present Tañada Room—

**Senator Enrile.** Into the premiere room in the Senate known as the Blue Ribbon Room.

**Senator Roco.** —and the Blue Ribbon...

**Senator Enrile.** And the Blue Ribbon Room now will go to whoever will be designated by the Chamber. Maybe Edmundo Cea Room.

**Senator Roco.** Whatever. So depending on...

**Senator Enrile.** Or another Bicolana—Tecla San Andres Ziga Room.

**Senator Roco.** Come to think of it, Mr. President, since there is no woman-senator after whom we have named...

**The President.** *Mayroon*—Pecson.

**Senator Roco.** Ah, Pecson, she is the first woman-senator.

**Senator Enrile.** But we need a Bicolano to be honored.

**Senator Roco.** We yield to the very outstanding suggestion of the senator from Cagayan. *[Laughter]*

**Senator Enrile.** Tecla San Andres Ziga, Mr. President...

#### SUSPENSION OF SESSION

**Senator Tatad.** Mr. President, I move that we suspend the session for one minute before I get confused.

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

*It was 10:16 a.m.*

#### RESUMPTION OF SESSION

*At 10:23 a.m., the session was resumed.*

**The President.** The session is resumed.

#### SUSPENSION OF CONSIDERATION OF P. S. RES. NO. 910

**Senator Tatad.** Mr. President, it seems there is a need to thresh out small details on this resolution. So, I move that we suspend consideration of Proposed Senate Resolution No. 910.

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

#### BILL ON SECOND READING S. No. 2225 — Imposition of VAT on Certain Services *(Continuation)*

**Senator Tatad.** Mr. President, I move that we resume consideration of Senate Bill No. 2225 as reported out under Committee Report No. 509. We are still in the period of interpellations.

**The President.** Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2225 is now in order.

**Senator Tatad.** I ask that the distinguished sponsor, Sen. Juan Ponce Enrile, be recognized and for some interpellations, Sen. Franklin M. Drilon.

**Senator Enrile.** I am ready, Mr. President. I hope that they will give me a Merry Christmas by not prolonging the interpellation. *[Laughter]*

**Senator Drilon.** I assure the gentleman that just a few questions will be asked. We will finish within two minutes.

**Senator Enrile.** I would like to thank Senator Drilon for that.

**Senator Drilon.** Will the gentleman yield for a couple of questions?

**Senator Enrile.** Gladly, Mr. President.

**Senator Drilon.** Mr. President, I do recall that when we were debating on a similar committee report a year ago, which subsequently became Republic Act No. 8761, the representation of the secretary of Finance was that there was a need to postpone the application of the value-added tax system to the banks and

financial institutions because of the fact that if we fail to postpone this application, it would result in the interests shooting up. The secretary of Finance personally made representations with the Senate then, and I am sure also with the chairman of the Committee on Ways and Means, that in lieu of the VAT, a financial incentive tax system would be developed insofar as the banks and financial institutions are concerned. It was on that representation that this Chamber agreed to postpone the application of the VAT to January 1, 2001. Again, it was on their representation that FITS or Financial Incentive Tax System would be in place by this time and the Department of Finance was supposed to submit not later than middle of this year, say about June or July, a proposed FITS. I was wondering if the secretary of Finance ever submitted this to the Committee on Ways and Means.

**Senator Enrile.** Mr. President, this Financial Incentive Tax or FIT is still undergoing refinement in the Department of Finance. Because this will replace, as I understand it, the present five percent gross receipts tax, including the documentary stamp tax imposed on financial institutions whenever it issues papers like promissory notes or bonds or anything of the sort, including stamp tax on mortgage documents and other instruments for purposes of taxation. And so, this Financial Incentive Tax has not been submitted to the Senate, Mr. President.

I understand that a draft of it has been submitted to the Lower House but, surely, it has not reached our level yet.

**Senator Drilon.** And when will this reach our level considering that we are about to close the Eleventh Congress, Mr. President?

**Senator Enrile.** I think given the complicated nature of this proposed tax measure that would replace the existing system of taxing financial institutions, Mr. President, including the proposed imposition of VAT on banks, it is very difficult to anticipate that this proposed legislation will reach the Senate. And even if it would reach the Senate, I can say without any reservation that we have no time to consider such a complicated measure. So, there is a need to adopt the proposed measure now before us in order to give us time to really consider this FIT or Financial Incentive Tax if and when it reaches the Senate.

**Senator Drilon.** And is there any reasonable assurance once more that at least this year, this will be submitted to the Chamber and considered and debated on in 2001, Mr. President?

**Senator Enrile.** Hopefully, Mr. President, the bill which is pending in the Lower House will reach this Chamber maybe in the first half of next year.

**Senator Drilon.** But then, it has to be reintroduced considering the fact that the Eleventh Congress would expire by June 30.

**Senator Enrile.** If we cannot pass it before the end of the first half of next year—because the current Congress will end about June 30, 2001—but we can pass it during that period, then there is no need to reintroduce it.

**Senator Drilon.** In any case, did I hear the sponsor say yesterday, Mr. President, upon interpellation by the chairman of the Finance Committee, that this is the last extension?

**Senator Enrile.** Yes, Mr. President. As far as I am concerned, if the Executive department could not devise a substitute system of taxing banks, including imposing the VAT on them, then there will be no purpose or reason to further delay the application of the value-added tax on financial institutions, including professionals and the other tax groups that are included in this extension.

**Senator Drilon.** Did I hear the sponsor correctly yesterday that at the appropriate period, he will favorably consider an amendment so that the imposition of the value-added tax will be made effective on January 1, 2002 instead of 2003 as indicated in Senate Bill No. 2225? Did I hear that correctly yesterday?

**Senator Enrile.** Yes, Mr. President. This representation is amenable to a one-year extension. I think, God willing, in July of next year, we can really introduce already the necessary measures to implement a new system of taxation for financial institutions, and any extension of the VAT beyond that year will be unnecessary.

**Senator Drilon.** Just one last question for purposes of our education, Mr. President. In other jurisdictions where the value-added tax is in effect like in the United Kingdom, how are the banks and the financial institutions taxed? Are they included in the value-added tax system?

**Senator Enrile.** I do not think the banks are subject to VAT in the United Kingdom. There was an attempt in France as far as my recollection goes. But I understand the system is rather complicated. Somehow it has affected their interest rates.

**Senator Drilon.** So even in countries where the value-added tax system has been in place for quite a period of time, the financial institutions are excluded from the coverage of the VAT and another system of taxation is made effective insofar as the banks and financial institutions are concerned. Is that correct, Mr. President?

**Senator Enrile.** Will the gentleman repeat that, Mr. President?

**Senator Drilon.** As I said, in other countries where the VAT has been in effect for quite a period of time, the banks and other financial institutions are excluded from its coverage because of the nonapplicability and complexity of the system of the VAT as to be made applicable to the bank. Is that a correct understanding?

**Senator Enrile.** That is correct, Mr. President. I will read to the gentleman: Austria, exempted; Belgium, exempted; Canada, exempted; Denmark, exempted; Finland, exempted; France, exempted, except some aspects of banking activities; Germany, exempted; Greece, exempted; Iceland, exempted; Ireland, exempted; Italy, exempted; Japan, exempted; Luxembourg, exempted; Mexico, exempted; Netherlands, exempted; New Zealand, exempted; Norway, exempted; Portugal, exempted; Spain, exempted; Sweden, exempted; Switzerland, exempted; Turkey, exempted; United States, exempted; United Kingdom, exempted.

**Senator Drilon.** Is there any country in which the VAT is in effect where the banks and financial institutions would come under the value-added tax system?

**Senator Enrile.** None that I know of, Mr. President.

**Senator Drilon.** Thank you, Mr. President, and I thank the gentleman from Cagayan for yielding the floor for those questions.

Thank you, Mr. President.

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

**The President.** Before that, just one question from the Chair.

Senator Enrile, would the lawyers who have offices in the practice of law be affected by this bill?

**Senator Enrile.** They will be equally exempted, Mr. President.

**The President.** I ask that point because just like Senator Roco, we also have a law office, and therefore I would like to place that on record as a probable requirement.

**Senator Enrile.** All professionals, Mr. President, will be exempted, will be excluded from the application of the VAT until the end of next year.

**The President.** Yes. The only point that I wanted to put on record was that since in my case I have a small law office, I would, in fact, be benefited by this bill, for the record, because that is required by our...

**Senator Enrile.** So am I, Mr. President. As in the past we will, in fact, be benefited out of this bill because we are parts of law firms. But in my case, I am on leave from the law office.

**The President.** So am I.

**Senator Tatad.** Mr. President, I understand Sen. Serge R.

Osmeña III would like to clear up one or two points. I ask that he be recognized.

**The President.** Sen. Sergio R. Osmeña III is recognized.

**Senator Osmeña III.** Thank you, Mr. President. Will the distinguished author and sponsor yield?

**Senator Enrile.** Gladly, Mr. President.

**Senator Osmeña III.** Thank you.

Mr. President, I associate myself with the purposes of this bill. My only question is: Why are we exempting them for only one year? Why can it not be permanent?

**Senator Enrile.** Like the distinguished gentleman, Mr. President, I am in favor of removing from the VAT professionals and financial institutions, but since there are others who feel that we should include these people, we may not be able to agree with that.

So what this representation is suggesting is, we should postpone this for another year and come up with a really honest-to-goodness decision on this issue next year.

**Senator Osmeña III.** Mr. President, the gentleman knows that January 2003 is almost two years. Is my reading correct?

**Senator Enrile.** One year only up to the end of next year.

**Senator Osmeña III.** With a new Congress in play and with the reorganization of the committees, there may not be enough time to get this bill through. Can we make this two years, Mr. President?

**Senator Enrile.** I will leave it to the Chamber, Mr. President. I have already accepted the proposal that it will be made only up to the end of next year. But if there is any contrary view, it will have to be decided by the Chamber.

**Senator Osmeña III.** Thank you. I would propose that amendment during the period of amendments. I just want to put on record, Mr. President, that this is a double-taxation situation where the structure today for, say, the professional fees of brokers, emcees, choreographers, et cetera, are not geared to pay a 10 percent tax on gross on top of their income tax on net income.

Now, I remember that for contractors before there was a gross tax of about three percent—

**Senator Enrile.** That is correct.

**Senator Osmeña III.**—which is more tolerable. But 10 percent is a very heavy price to pay because on top of that, then they will have to still pay income tax.

**Senator Enrile.** Ten percent along the way, Mr. President.

**Senator Osmeña III.** That is correct. That is why I thank the good sponsor for yielding to me on these questions.

Thank you, Mr. President.

**Senator Enrile.** Thank you, Mr. President.

**The President.** The Majority Leader is recognized.

**Senator Tatad.** May I now move that we close the period of interpellations.

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

**Senator Tatad.** Mr. President, there are no committee amendments. I move that we close the period of committee amendments and consider the individual amendments.

**The President.** It is now open to individual amendments, if there are any.

**Senator Tatad.** Mr. President, I ask that Sen. John H. Osmeña be recognized.

**The President.** Sen. John H. Osmeña is recognized.

**Senator J. Osmeña.** Mr. President, I think we will have to deal with this now.

The amendment that I had suggested during the interpellation yesterday was to shorten, in effect, the period from two years to one year. I agree with our Chair that this whole idea should be revisited. We have an institution in the Executive department, the Philippine Tax—

**Senator Enrile.** The National Tax Research Center.

**Senator J. Osmeña.**—the National Tax Research Center which should be tasked with the responsibility of addressing this. It does not have to be Congress. Congress would be the recipient of the study prepared by NTRC. Because if we really depend upon the members of Congress, from our experience, we come back to Congress almost the end of July. It takes about at least a month, especially the House, to get organized, to have all the committees in place. And so, effectively, about eight months of the next year

of 2001 are not going to be very productive legislative years and I am aware of that.

But this business of continuing to postpone, we have done this in the case of the APT, and I am happy that, finally, the Executive department has accepted the fact that the APT must go. This particular aspect of the VAT law has been hanging around since 1994, six years already, so I would suggest that we cut this to one year.

#### OSMEÑA AMENDMENTS

My amendment is on page 1, Section 1, line 5, the numbers "2003" be changed to 2002 and that we add a new Section 2 to the bill mandating the National Tax Research Center to come up with a study by the 31st of July, and if for any reason that study cannot be adequately addressed, then we can extend this again for another year. But for us to give them two years and then at the end of two years they are not going to do it and they are going to come back to us in the middle of December, like they always do, this is going to be an endless chain, Mr. President.

**Senator Enrile.** Mr. President, I will accept the proposed amendment.

Mr. President, the other distinguished gentleman from Cebu is asking a suspension. [*There was a long pause.*]

**The President.** Senator Enrile.

**Senator Enrile.** Mr. President, we are ready to resume.

**The President.** We have not suspended the session. We are still in session.

**Senator J. Osmeña.** Mr. President, during the break, Sen. Serge R. Osmeña III and this representation—and we were joined by the distinguished chairman—agreed that so as to give the bureaucracy time, the extension should be until the middle of the year 2002 so that when the new Congress returns—because the new Congress will come in in July 2001 and it will have one year when it returns in July 2002—it will have a proposal already.

**Senator Enrile.** In other words, the extension will be from January 1, 2001 to June 30, 2002?

**Senator J. Osmeña.** Yes, Mr. President.

**Senator Enrile.** I will accept that, Mr. President, as an amendment, and I agree with the suggestion that we should now direct and require the... I understand there is a task force on tax reform organized in the Executive department chaired by the

Department of Finance, together with the National Tax Research Center and some members of Congress as members, to work out a new system of taxing these three groups of taxpayers in lieu of the VAT, and that they should submit a proposal not later than the end of June 2001.

**Senator J. Osmeña.** The proposal has to be early enough to give the Congress time to enact it. So, I would suggest that the proposal be submitted by December 31, 2001 so that we will have...

**Senator Enrile.** I said not later than June 30, 2001 so that we can consider it in the first half of 2001 when Congress resumes its session.

**Senator J. Osmeña.** We will ask the committee to draft the amendment...

**Senator Enrile.** Subject to style.

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

**Senator Tatad.** Mr. President.

**The President.** The Majority Leader.

**Senator Tatad.** Mr. President, there being no more further individual amendments, I move that we close the period of amendments.

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

#### APPROVAL OF S. NO. 2225 ON SECOND READING

**Senator Tatad.** Mr. President, I move that we vote on Second Reading on Senate Bill No. 2225, as amended.

**The President.** Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on Senate Bill No. 2225, 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 *no*. *[Silence]*

Senate Bill No. 2225, as amended, is approved on Second Reading.

#### SUSPENSION OF CONSIDERATION OF S. NO. 2225

**Senator Tatad.** Mr. President, I move that we suspend consideration of Senate Bill No. 2225.

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

#### CONFERENCE COMMITTEE REPORT ON S. NO. 2113/H. NOS. 8134 and 11651 (Amending the Philippine Science High School Act of 1997)

**Senator Tatad.** Mr. President, I move that we now consider the Conference Committee Report on the disagreeing provisions of Senate Bill No. 2113 and House Bill No. 8134.

**The President.** Mr. Majority Leader, we are having a session on the Impeachment Court.

**Senator Tatad.** Yes. This will take a very short time. Mr. President.

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

**Senator Tatad.** I ask that Senator Aquino-Oreta be recognized to sponsor the report.

**The President.** Senator Aquino-Oreta is recognized to sponsor the report.

#### REPORT OF SENATOR AQUINO-ORETA

**Senator Aquino-Oreta.** Thank you, Mr. President.

We have now with us the disagreeing provisions of Senate Bill No. 2113 and House Bill No. 8134, and after having met and fully discussed the subject matter, we would like to report what both Houses followed.

Mr. President, if each member was given a copy, maybe they can just read over it and I would like to request that the Senate approve this bill because yesterday the House approved the same. And we would like to pray that we approve the same so that the science and technology aspect of the Philippine Science High School System will now be organized and there will be just one governing board for the whole country. Each Philippine Science High School System campus in the different regions will have one governing board where the focus is on science and technology. But I would like to announce that this school will cater to the brighter students, to the selected students.