WEDNESDAY, FEBRUARY 16, 2000

OPENING OF THE SESSION

At 3:39 p.m., the Senate President, Sen. Blas F. Ople, called the session to order.

The President. The 61st session of the Second Regular Session of the Eleventh Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Raul S. Roco.

Everybody rose for the prayer.

PRAYER

Senator Roco. Let us bow our heads in prayer.

Lord, in this time of confusion, when the Executive cannot seem to enforce policy with stability, or execute the law with finality;

When the Judiciary cannot seem to determine whether to interpret Philippine law or foreign law in an extradition treaty;

When we ourselves in the Legislature cannot seem to decide whether we want to collect or forgive or directly spend our taxes,

Please guide us, Lord, to a clarity of direction -

THAT the nation may unite;

THAT the wounds may heal;

THAT the TRUTH may prevail.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, *reading:*

Senator Teresa Aquino-Oreta .... Absent
Senator Robert Z. Barbers .... Present

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

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

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

THE JOURNAL

Senator Drilon. Mr. President, I move that we dispense with the reading of the *Journal* of the previous session and consider it approved.

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

Senator Drilon. Mr. President, I move that we proceed to the Reference of Business.

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

The Secretary will read the Reference of Business.

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* Arrived after the roll call

ADDITIONAL REFERENCE OF BUSINESS

BILL ON FIRST READING

The Secretary. Senate Bill No. 1903, entitled

AN ACT PROHIBITING LOWER COURTS FROM ISSUING RESTRAINING ORDERS OR PRELIMINARY INJUNCTIONS IN CASES INVOLVING GOVERNMENT INFRASTRUC-TURE PROJECTS AND FOR OTHER PURPOSES

Introduced by Senator Drilon

The President. Referred to the Committees on Justice and Human Rights; and Public Works

RESOLUTION

The Secretary. Proposed Senate Resolution No. 679, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN IMMEDIATE INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED OFFENSIVE PROMOTION OF THE PHILIPPINES BY BIG APPLE ORIENTAL TOURS (NEW YORK) AND SIMILAR TRAVEL AGENCIES AS SEX DESTINATION IN SOUTHEAST ASIA, AND TO RECOMMEND REMEDIAL MEASURES TO PUT AN END TO SEX TOURISM

Introduced by Senator Jaworski

The President. Referred to the Committees on Youth, Women and Family Relations; and Tourism

COMMUNICATIONS

The Secretary. Indorsements from Director Carlito C. Gaddi of the Office of the President of the Philippines referring to the Senate the following:

Resolution Nos. 715, series of 1999 of the Sangguniang Panlalawigan of Agusan del Sur; 50, series of 1999 of the Sangguniang Bayan of Sapad, Lanao del Norte; 99-478, series of 1999 of the Sangguniang Bayan of Medellin, Cebu; 99-688, series of 1999 of the Sangguniang Panlalawigan of Benguet; and 99-247, series of 1999 of the Sangguniang Panlalawigan of Iloilo, all rejecting the proposed move by Congress to reduce the Internal Revenue Allotment share of Local Government Units.

The President. To the Archives

The Secretary. Resolution Nos. 99-620 and 99-621, series of 1999 of the Sangguniang Panlalawigan of Bohol supporting Proposed Senate Resolution Nos. 297 and 282, introduced by Senators Jaworski and Honasan, respectively, directing the appropriate committees to conduct an inquiry into the alleged entry and reported field testing of genetically modified organism.

The President. Referred to the Committees on Environment and Natural Resources; and Agriculture and Food

COMMITTEE REPORT

The Secretary. Committee Report No. 179 submitted jointly by the Committees on Trade and Commerce; and Science and Technology on Senate Bill No. 1902, introduced by Senators Flavier, Ople, Magsaysay Jr., and Sotto III, entitled

AN ACT PROVIDING FOR AN ELECTRONIC COMMERCE LAW AND FOR OTHER PURPOSES,

recommending its approval without amendments.

Sponsors: Senators Magsaysay Jr., Sotto III, Flavier and Ople

The President. To the Calendar for Ordinary Business

The Majority Leader is recognized.

BILL ON SECOND READING
S. No. 1830–Road User's Charge on All Motor Vehicles
(Continuation)

Senator Drilon. Mr. President, with the permission of the Chamber, I move that we resume consideration of Senate Bill No. 1830 as reported out under Committee Report No. 89. This is the proposed measure imposing a motor vehicle user's charge.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1830 is now in order.

Senator Drilon. To deliver a speech *en contra,* may I ask the Chair to recognize the Minority Leader, Sen. Teofisto T. Guingona Jr.

The President. Sen. Teofisto T. Guingona Jr. is recognized.

wanted to make sure—change the word "CONGRESSIONAL" to the word LEGISLATIVE.

Senator Tatad. It is accepted, Mr. President.

The Presiding Officer [Sen. Sotto]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Osmeña III. In the last two lines of the title, Mr. President, after the word "PHILIPPINES", delete the comma (,) and the phrase following it: "PARTICULARLY ON THE NATIONAL SECURITY AND DEFENSE MATTERS AND CONCERNS."

Senator Tatad. It is accepted, Mr. President.

The Presiding Officer [Sen. Sotto]. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Osmeña III. Thank you, Mr. President.

Senator Tatad. I would like to thank Senator Osmeña III. Thank you, Mr. President.

I move that we close the period of individual amendments.

The Presiding Officer [Sen. Sotto]. The Majority Leader is nodding his head. Is there any objection? *[Silence]* There being none, the motion is approved.

APPROVAL OF P. S. JT. RES. NO. 15
ON SECOND READING

Senator Drilon. Mr. President, I move that we vote on Second Reading on Proposed Senate Joint Resolution No. 15, as amended.

The Presiding Officer [Sen. Sotto]. Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on Proposed Senate Joint Resolution No. 15, as amended.

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

Several Members. *Aye*.

The Presiding Officer [Sen. Sotto]. As many as are against the resolution, say *nay*. *[Silence]*

The *ayes* have it; Proposed Senate Joint Resolution No. 15, as amended, is approved on Second Reading.

SUSPENSION OF CONSIDERATION
OF P. S. JT. RES. NO. 15

Senator Drilon. Mr. President, I move that we suspend consideration of Proposed Senate Joint Resolution No. 15.

The Presiding Officer [Sen. Sotto]. Is there any objection? *[Silence]* There being none, the motion is approved.

SPECIAL ORDERS

Senator Drilon. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders, Committee Report No. 179 on Senate Bill No. 1902, entitled

> AN ACT PROVIDING FOR AN ELECTRONIC COMMERCE LAW AND FOR OTHER PURPOSES.

The Presiding Officer [Sen. Sotto]. Is there any objection? *[Silence]* There being none, the motion is approved.

BILL ON SECOND READING
S. No. 1902--Electronic Commerce Law

Senator Drilon. Mr. President, I move that we consider Senate Bill No. 1902 as reported out under Committee Report No. 179.

The Presiding Officer [Sen. Sotto]. Is there any objection? *[Silence]* There being none, the motion is approved.

Consideration of Senate Bill No. 1902 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. 1902, entitled

> AN ACT PROVIDING FOR AN ELECTRONIC COMMERCE LAW AND FOR OTHER PURPOSES

The following is the whole text of the bill:

Senate Bill No. 1902

AN ACT PROVIDING FOR AN ELECTRONIC COMMERCE LAW AND FOR OTHER PURPOSES

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

PART I
SHORT TITLE AND DECLARATION OF POLICY

SECTION 1. *Short Title.* - This Act shall be known and cited as the "Electronic Commerce Act". (NU)

SEC. 2. *Declaration of Policy.* - The State recognizes the vital role of information technology and telecommunication in nation-building; the need to create an information-friendly environment which supports and ensures the availability, diversity and affordability of telecommunication and information technology products and services; the primary responsibility of the private sector in contributing investments and services in telecommunications and information technology; the need to develop, with appropriate training programs and institutional policy changes, human resources for the information technology age, a labor force skilled in the use of telecommunication and information technology and a population capable of operating and utilizing electronic appliances and computers; its obligation to facilitate the transfer and promotion of adaptation technology, to ensure network security, connectivity and neutrality of technology for the national benefit; and the need to marshal, organize and deploy national information infrastructures, comprising in both telecommunications network and strategic information services, including their interconnection to the global information networks, with the necessary and appropriate legal, financial, diplomatic and technical framework, system and facilities. (NU)

PART II
ELECTRONIC COMMERCE IN GENERAL

Chapter I
GENERAL PROVISIONS

SEC. 3. *Objectives.* - This Act aims to simplify and facilitate domestic and international exchange of information, dealings, transactions, arrangements, agreements and contracts through the utilization of electronic, optical and similar medium, mode and instrumentality, and to promote security and recognizes the authenticity and reliability of data messages related to such activities.

SEC. 4. *Sphere of Application.* - This Act shall apply to any kind of data message used in the context of commercial activities and other exchange of information, dealings, transactions, arrangements, agreements and contracts.

SEC. 5. *Definition of Terms.* - For the purposes of this Act, the following terms are defined, as follows:

(a) "Addressee" of a data message means a person who is intended by the originator to receive the data message, but does not include a person acting as an intermediary with respect to that data message;

(b) "Computer" refers to any device or apparatus which, by electronic, electro-mechanical or magnetic impulse, or by other means, is capable of receiving, recording, transmitting, storing, processing, retrieving or producing information, data, figures, symbols or other modes of written expression according to mathematical and logical rules, or of performing any one or more of those functions including two or more computers carrying one or more of those functions in combination or in succession or otherwise how- soever conjointly which shall be treated as a single computer.

(c) "Data message" means information generated, sent, received or stored by electronic, optical or similar means including, but not limited to electronic data interchange (EDI), electronic mail, telegram, telex, or telecopy;

(d) "Electronic data interchange (EDI)" means the electronic transfer from computer to computer of information using an agreed standard to structure the information;

(e) "Hacking" refers to acts including, but not limited to, any unauthorized access into or interference in a computer system/server or any access in order to corrupt, destroy, alter, or steal data messages using computers or other similar communication devices.

(f) "Information system" means a system for generating, sending, receiving, storing or otherwise processing data messages;

(g) "Intermediary" with respect to a particular data message, means a person who, on behalf of another person, sends, receives or stores that data message or provides other services with respect to that data message;

(h) "Originator" of a data message means a person by whom, or on whose behalf, the data message purports to have been sent or generated prior to storage, if any, but it does not include a person acting as an intermediary with respect to that data message;

SEC. 6. *Interpretation.* - (1) In the interpretation of this Act, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

(2) Questions concerning matters governed by this Act, which are not expressly settled in it are to be settled in conformity with the general principles on which this Act is based.

SEC. 7. *Variation by Agreement.* - (1) As between parties involved in generating, sending, receiving, storing or otherwise processing data message, and except as otherwise provided, the provisions of Part II, Chapter III, may be varied by agreement.

(2) Paragraph (1) does not affect any right that may exist to modify by agreement any rule of law referred to in Part I, Chapter II.

Chapter II
LEGAL RECOGNITION OF DATA MESSAGES

SEC. 8. *Legal Recognition of Data Messages.* - Information shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the data message purporting to give rise to such legal effect, but is merely referred to in that data message.

SEC. 9. *Legal Recognition of Electronic Writing.* - (1) Where the law requires information to be in writing that requirement is met by a data message if the information contained therein is accessible so as to be usable for subsequent reference.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being in writing.

SEC. 10. *Legal Recognition of Electronic Signatures.* - (1) Where the law required a signature of a person, that requirement is met in relation to a data message if:

(a) a method is used to identify that person and to indicate that person's approval of the information contained in the data message; and

(b) that method is as reliable as was appropriate for the purpose for which the data message was generated or communicated, in the light of all the circumstances, including any relevant agreement.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the absence of a signature.

SEC. 11. *Original Documents.* - (1) Where the law requires information to be presented or retained in its original form, that requirement is met by a data message if:

(a) there exists a reliable assurance as to the integrity of the information from the time when it was first generated in its final form, as a data message or otherwise; and

(b) where it is required that information be presented, that information is capable of being displayed to the person to whom it is to be presented.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being presented or retained in its original form.

(3) For the purposes of subparagraph (a) of paragraph (1):

(a) the criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display; and

(b) the standard of reliability shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances.

SEC. 12. *Admissibility and Evidential Weight of Data Messages.* - (1) In any legal proceedings, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of a data message in evidence:

(a) on the sole ground that it is a data message; or

(b) if it is the best evidence that the person adducing it could reasonably be expected to obtain, on the grounds that it is not its original form.

(2) Information in the form of a data message shall be given due evidential weight. In assessing the

evidential weight of a data message, regard shall be had to the reliability of the manner in which the data message was generated, stored or communicated, to the reliability of the manner in which the integrity of the information was maintained, to the manner in which its originator was identified, and to any other relevant factor.

SEC. 13. *Retention of Data Messages.* - (1) Where the law requires that certain documents, records or information be retained, that requirement is met by retaining data messages: *Provided,* That the following conditions are satisfied:

(a) the information contained therein is accessible so as to be usable for subsequent reference; and

(b) the data message is retained in the format in which it was generated, sent or received, or in the format which can be demonstrated to represent accurately the information generated, sent or received; and

(c) such information, if any, is retained as enables the identification of the original and destination of a data message and the time when it was sent or received.

(2) An obligation to retain documents, records or information in accordance with paragraph (1) does not extend to any information the sole purpose of which is to enable the message to be sent or received.

(3) A person may satisfy the requirement referred to in paragraph (1) by using the services of any other person: *Provided,* that the conditions set forth in subparagraph (a), (b) and (c) of paragraph (1) are met.

Chapter III
COMMUNICATION OF DATA MESSAGES

SEC. 14. *Formation and Validity of Contracts.* - (1) In the context of contract formation, unless otherwise agreed by the parties, an offer and the acceptance of an offer may be expressed by means of data messages. Where a data message is used in the formation of a contract, that contract shall not be denied validity or enforceability on the sole ground that a data message was used for that purpose.

SEC. 15. *Recognition by Parties of Data Messages.* - (1) As between the originator and the addressee of a data message, a declaration of will or other statement shall not be denied legal effect, validity or enforceability

solely on the grounds that it is in the form of a data message.

SEC. 16. *Attribution of Data Messages.* - (1) A data message is that of the originator if it was sent by the originator itself.

(2) As between the originator and the addressee, a data message is deemed to be that of the originator if it was sent:

(a) by a person who had the authority to act on behalf of the originator in respect of that data message; or

(b) by an information system programmed by, or on behalf of the originator to operate automatically.

(3) As between the originator and the addressee, an addressee is entitled to regard a data message as being that of the originator, and to act on that assumption, if:

(a) in order to ascertain whether the data message was that of the originator, the addressee properly applied a procedure previously agreed to by the originator for that purpose; or

(b) the data message as received by the addressee resulted from the actions of a person whose relationship with the originator or with any agent of the originator enabled that person to gain access to a method used by the originator to identify data messages as its own.

(4) Paragraph (3) does not apply:

(a) as of the time when the addressee has both received notice from the originator that the data message is not that of the originator, and has reasonable time to act accordingly; or

(b) in a case within paragraph (3)(b), at any time when the addressee knew or should have known, had it exercised reasonable care or used any agreed procedure, that the data message was not that of the originator.

(5) Where a data message is that of the originator or is deemed to be that of the originator, or the addressee is entitled to act on that assumption, then, as between the originator and the addressee, the addressee is entitled

to regard the data message as received as being what the originator intended to send, and to act on that assumption. The addressee is not so entitled when it knew or should have known, had it exercised reasonable care or used any agreed procedure, that the transmission resulted in any error in the data message as received.

(6) The addressee is entitled to regard each data message received as a separate data message and to act on that assumption, except to the extent that it duplicates another data message and the addressee knew or should have known, had it exercised reasonable care or used any agreed procedure, that the data message was a duplicate.

SEC. 17. *Acknowledgment of Receipt.* - (1) Paragraphs (2) to (4) of this article apply where, on or before sending a data message, or by means of that data message, the originator has requested or has agreed with the addressee that receipt of the data message be acknowledged.

(2) Where the originator has not agreed with the addressee that the acknowledgment be given in a particular form or by a particular method, an acknowledgment may be given by:

(a) any communication by the addressee, automated or otherwise; or

(b) any conduct of the addressee, sufficient to indicate to the originator that the data message has been received.

(3) Where the c .inator has stated that the data message is conditional on receipt of the acknowledgment, the data message is treated as though it has never been sent, until the acknowledgment is received.

(4) Where the originator has not stated that the data message is conditional on receipt of the acknowledgment, and the acknowledgment has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed, within a reasonable time, the originator:

(a) may give notice to the addressee stating that no acknowledgment has been received and specifying
- a reasonable time by which the acknowledgment must be received; and

(b) if the acknowledgment is not received within the time specified in subparagraph (a), may, upon

notice to the addressee, treat the data message as though it had never been sent, or exercise any other rights it may have.

(5) Where the originator receives the addressee's acknowledgment of receipt, it is presumed that the related data message was received by the addressee. That presumption does not imply that the data message corresponds to the message received.

(6) Where the received acknowledgment states that the related data message met technical requirements, either agreed upon or set forth in applicable standards, it is presumed that those requirements have been met.

(7) Except in so far as it relates to the sending or receipt of the data message, this article is not intended to deal with the legal consequences that may flow either from that data message or from the acknowledgment of its receipt.

SEC. 18. *Time and Place of Dispatch and Receipt of Data Messages.* - (1) Unless otherwise agreed between the originator and the addressee, the dispatch of a data message occurs when it enters an information system outside the control of the originator or of the person who sent the data message on behalf of the originator.

(2) Unless otherwise agreed between the originator and the addressee, the time of receipt of a data message is determined as follows:

(a) If the addressee has designated an information system for the purpose of receiving data messages, receipt occurs:

(i) at the time when the data message enters the designated information system; or

(ii) if the data message is sent to an information system of the addressee that is not the designated information system, at the time when the data message is retrieved by the addressee;

(b) If the addressee has not designated an information system, receipt occurs when the data message enters an information system of the addressee.

(3) Paragraph (2) applies notwithstanding that the place where the information system is located may be different from the place where the data message is deemed to be received under paragraph (4).

.(4) Unless otherwise agreed between the originator and the addressee, a data message is deemed to be dispatched at the place where the originator has its place of business, and is deemed to be received at the place where the addressee has its place of business. For the purposes of this paragraph:

(a) if the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction or, where there is no underlying transaction or where there is underlying transaction the principal place of business;

(b) if the originator or the addressee does not have a place of business, reference is to be made to its habitual residence.

PART III
ELECTRONIC COMMERCE IN SPECIFIC AREAS

Chapter I
CARRIAGE OF GOODS

SEC. 19. *Actions Related to Contracts of Carriage of Goods.* - Without derogating from the provisions of part two of this law, this chapter applies to any action in connection with, or in pursuance of, a contract of carriage of goods, including but not limited to:

(a)

(i) furnishing the marks, number, quantity or weight of goods;

(ii) stating or declaring the nature or value of goods;

(iii) issuing a receipt for goods;

(iv) confirming that goods have been loaded;

(b)

(i) notifying a person of terms and conditions of the contract;

(ii) giving instructions to a carrier;

(c)

(i) claiming delivery of goods;

(ii) authorizing release of goods;

(iii) giving notice of loss of, or damage to, goods;

(d) giving any other notice or statement in connection with the performance of the contract;

(e) undertaking to deliver goods to a named person or a person authorized to claim delivery;

(f) granting, acquiring, renouncing, surrendering, transferring or negotiating rights in goods;

(g) acquiring or transferring rights and obligations under the contract.

SEC. 20. *Transport Documents.* - (1) Subject to paragraph (3), where the law requires that any action referred to in Section 19 be carried out in writing or by using a paper document, that requirement is met if the action is carried out by using one or more data messages.

(2) Paragraph (1) applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for failing either to carry out the action in writing or to use a paper document.

(3) If a right is to be granted to, or an obligation is to be acquired by, one person and no other person, and if the law requires that, in order to effect this, the right or obligation must be conveyed to that person by the transfer, or use of, a paper document, that requirement is met if the right or obligation is conveyed by using one or more data messages: *Provided,* That a reliable method is used to render such data message or messages unique.

(4) For the purposes of paragraph (3), the standard of reliability required shall be assessed in the light of the purpose for which the right or obligation was conveyed and in the light of all the circumstances, including any relevant agreement.

(5) Where one or more data messages are used to effect any action in subparagraphs (f) and (g) of Section 19, no paper document used to effect any such action is valid unless the use of data message has been terminated and replaced by the use of paper documents. A paper document issued in these circumstances shall contain a statement of such termination. The replacement of data messages by paper documents shall not affect the rights or obligations of the parties involved.

(6) If a rule of law is compulsorily applicable to a contract of carriage of goods which is in, or is evidenced by, a paper document, that rule shall not be inapplicable to such a contract of carriage of goods which is evidenced by one or more data messages by reason of the fact that the contract is evidenced by such data message or messages instead of by a paper document.

PART IV
DATA MESSAGES IN GOVERNMENT TRANSACTIONS

SEC. 21. *Government Use of Data Messages and Electronic Signatures.* - Notwithstanding any law to the contrary, all departments, bureaus, offices and agencies of the government, as well as all government owned and controlled corporations, that pursuant to law require or accept the filing of documents, require that documents be created, or retained and/or submitted, issue permit, license or certificates of registration or approval, or provide for the method and manner of payment or settlement of fees and other obligations to the government, shall -

(A) accept the creation, filing or retention of such documents in the form of data messages;

(B) issue permits, licenses, or approval in the form of data messages;

(C) require and/or accept payments, and issue receipts acknowledging such payments, through systems using data messages; or

(D) transact the government business and/or perform governmental functions using data messages and, for the purpose, are authorized to adopt and promulgate, after appropriate public hearing and with due publication in newspapers of general circulation, the appropriate rules, regulations, or guidelines, to, among others specify -

a) the manner and format in which such data messages shall be filed, created, retained or issued;

b) where and when such data messages have to be signed, the use of a digital signature or other secure electronic signature, the type of electronic signature required; and

c) the format of the data message and the manner the

electronic signature shall be affixed to the data message;

d) the control processes and procedures as appropriate to ensure adequate integrity, security and confidentiality of data messages, records or payments;

e) other attributes required of data messages or payments; and

f) the full or limited use of the documents and papers for compliance with the government requirements.

Provided, that this Act shall by itself mandate any department or ministry of the government, organ of state of statutory corporation to accept or issue any document in the form of data messages upon the adoption, promulgation and publication of the appropriate rules, regulations, or guidelines.

SEC. 22. *Authority of the Department of Trade and Industry and Participating Entities.* - The Department of Trade and Industry (DTI) shall direct and supervise the promotion and development of electronic commerce in the country. This will be in consultation and coordination with the national information technology council and national computer center, as well as the government offices and agencies, and representatives of the private sector concerned. Further, the DTI and the participating government and private entities shall have the authority to -

a) recommend policies, plans and programs to further enhance the development of electronic commerce in the country;

b) coordinate and monitor the implementation of said policies, plans and/or programs;

c) provide fora and mechanisms in addressing issues and concerns affecting the other government offices and agencies;

d) within sixty (60) days after the effectivity of this Act, promulgate rules and regulations and perform such other functions as are necessary and advisable for the implementation of this Act in the area of electronic commerce.

PART V
FINAL PROVISIONS

SEC. 23. *Penalties.* - The following acts shall be penalized by fine and/or imprisonment, as follows:

a) hacking as defined in part two, chapter i, section 5 (e) of this Act to be punished by a minimum fine of One hundred thousand pesos (P100,000.00) and a maximum commensurate to the damage incurred and a mandatory imprisonment of 6 months to three (3) years;

b) violations of the Consumer Act of R.A. 7394 through transactions covered by or using data messages, to be penalized with the same penalties as provided in that Act;

c) other violations of the provisions of this Act, to be penalized with a maximum penalty of one million pesos (P1,000,000.00) or six (6) years imprisonment.

SEC. 24. *Separability Clause.* - The provisions of this Act are hereby declared separable and in the event of any such provision is declared unconstitutional, the other provisions to remain in force and effect.

SEC. 25. *Repealing Clause.* - All other laws, decrees, rules and regulations or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 26. *Effectivity.* - This Act shall take effect immediately after its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,

Senator Drilon. To sponsor the measure, Mr. President, may I ask the Chair to recognize Sen. Ramon B. Magsaysay Jr.

The Presiding Officer [Sen. Sotto]. Sen. Ramon B. Magsaysay Jr. is recognized to sponsor the bill.

SPONSORSHIP SPEECH OF SENATOR MAGSAYSAY

Senator Magsaysay. Thank you, Mr. President.

This is the second time that I will sponsor the bill.

During the course of the interpellation on the original bill, Senate Bill No. 1523 under Committee Report No. 34, where our colleagues, Senators Guingona, Defensor Santiago, Biazon, Honasan, Jaworski, Enrile, Legarda-Leviste, Revilla, and Roco, gave their valuable comments and inputs, the distinguished gentleman from Bicol, Senator Roco, recommended a revision of the bill using the e-commerce model law on the United Nations Commission on International Trade Law or UNCITRAL.

Senator Roco maintained that since the UNCITRAL model law is the exact model used in the respective e-commerce laws of other United Nations member countries, like Singapore and Malaysia, the Philippines might as well adopt the same law.

Mr. President, this representation, upon the agreement of this Chamber last February 1, 2000, together with the members of the Committees on Trade and Commerce; and Science and Technology, decided to adopt the recommendations of Senator Roco.

Therefore, on behalf of the Committees on Trade and Commerce; and Science and Technology, to which this bill was referred, we would like to present for the consideration of this Body a new version of the e-commerce bill under Committee Report No. 179. -

This new version basically contains the substantial provisions of the UNCITRAL Model Law on e-commerce. The term "electronic documents" has been modified to "data messages" to comply with the terminology of the UNCITRAL model.

Among the more significant provisions of the bill are the application of legal requirements to data messages which includes the admissibility and evidential weight of data messages; communication of data messages, including formation and validity of contracts; recognition and attribution of data messages; and acknowledgment of receipt and the carriage of goods.

However, to distinguish, letters "NU" which stand for "non-UNCITRAL" were added in parentheses after the provisions supplemented by the committees. These provisions are those that are domestic in character—meaning, generated by our technical working group—but which we deem important. The most significant of these are: the use of data messages and electronic signatures in the transactions of the Philippine government; authority of the Department of Trade and Industry and participating public and private entities; and the penalty clause.

As I have already emphasized in my first sponsorship speech, e-commerce brings forth so much economic opportunities for our country. The Internet enables any small, medium or large

enterprise to establish its presence on-line and be an equal player in a fiercely growing competitive marketplace. Through the Internet and e-commerce, consumers around the globe are able to shop and avail themselves of goods and services conveniently, without actually leaving the comfort of their own home or workplace.

May I also point out, Mr. President, that if the proposed e-commerce law is passed, the Philippines would be the fourth Asian country, after Singapore, Malaysia and Korea to adopt an e-commerce policy. Now, that would put our country at par with other Asian countries to be competitive, if not with the rest of the world.

Thank you, Mr. President.

The **Presiding Officer** [Sen. Sotto]. The Majority Leader is recognized.

Senator Drilon. Mr. President, there are a number of our colleagues who manifested their desire to avail themselves of the period of interpellations. They wish, however, to have a little more time to review the measure, including the sponsorship speech.

SUSPENSION OF CONSIDERATION OF S. NO. 1902

Thus, Mr. President, I move that we suspend consideration of Senate Bill No. 1902.

The **Presiding Officer** [Sen. Sotto]. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Drilon. Mr. President, this is in relation to Senate Bill No. 84 and Senate Bill No. 1221 which deal with the issue of restraining orders by the Judiciary on public works projects.

Senate Bill No. 1247 was referred to the Committee on Public Works, while Senate Bill No. 84 was referred to the Committee on Justice and Human Rights as the primary committee.

MOTION OF SENATOR DRILON
(Referral of S. No. 1247 to the Committee On Justice and Human Rights)

For consistency, I move that Senate Bill No. 1247 be referred to the Committee on Justice and Human Rights so that it is consistent with the referral of Senate Bill No. 84 and that the secondary committee be the Committee on Public Works.

The **Presiding Officer** [Sen. Sotto]. What about Senate Bill No. 1221?

Senator Drilon. Senate Bill No. 1221 was referred to the Committee on Justice and Human Rights.

The **Presiding Officer** [Sen. Sotto]. The motion is to commit Senate Bill No. 1247 to the Committee on Justice and Human Rights likewise?

Senator Drilon. Yes, Mr. President.

The **Presiding Officer** [Sen. Sotto]. Is there any objection? *[Silence]* There being none, the motion is approved.

ADJOURNMENT OF SESSION

Senator Drilon. Mr. President, I move that we adjourn the session until three o'clock in the afternoon on Monday, February 21, 2000.

The **Presiding Officer** [Sen. Sotto]. Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock in the afternoon on Monday, February 21, 2000.

It was 5:43 p.m.