MONDAY, FEBRUARY 21, 2000

OPENING OF THE SESSION

At 3:14 p.m., the Senate President, Hon. Blas F. Ople, called the session to order.

The President. The 62nd 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. Robert Z. Barbers. After the prayer, the NBI Choral Group will lead us in the singing of the national anthem. The Choral Group will also render another song, entitled *Mabuhay Ka Pilipino.*

Everybody rose for the prayer.

PRAYER

Senator Barbers.

Ama naming lumikha, marami pong salamat sa Inyong walang sawang paggabay sa amin sa araw-araw. Nawa sa aming pagtitipon-tipon ngayong hapon upang talakayin ang mga isyung kinakaharap ng bansa ay magkaisa kami sa paniniwala at paninindigan para sa kapakanan ng aming sambayanan.

Sa pagtupad naming mga senador sa aming mga tungkulin, ipahiwatig po Ninyo ang tama at kapakipakinabang sa lahat at ituro ang maka-Diyos at makataong paglilingkod.

Noong ang bansang Pilipinas ay nasa kasagsagan ng problema sa ekonomiya ilang taon na ang nakararaan, Kayo, Panginoon, ang naging tanglaw sa aming pagtahak sa kadiliman. Ngayong nahaharap kaming muli sa ilang pagsubok, nawa ay tulungan Ninyong malagpasan ng mamamayang Pilipino ang mga krisis na ito.

Amang makapangyarihan, itinataas ko rin sa Inyo ang lahat ng kabataan sa buong mundo. Iwaglit po Ninyo sa kanilang mga isipan ang karahasan. Ilayo Ninyo sila sa pang-aabuso, sa ilegal na droga at krimen. Gabayan po Ninyo ang mga kabataan tungo sa kabutihan at turuang magpahalaga at magmahal sa kapwa at sa mundong kanilang ginagalawan.

Ang lahat ng ito ay isinasamo namin sa matamis na Pangalan ni Jesus.

Amen.

NATIONAL ANTHEM

Everybody remained standing for the singing of the national anthem.

The President. The Senate would like to thank the NBI Choral Group for its inspiring music.

The Secretary will please call the roll.

ROLL CALL

The Secretary, *reading:*

Senator Teresa Aquino-Oreta	Present
Senator Robert Z. Barbers	Present
Senator Rodolfo G. Biazon	Present
Senator Renato L. *Compañero* Cayetano	Present
Senator Anna Dominique M.L. Coseteng	Present
Senator Franklin M. Drilon	Present
Senator Juan Ponce Enrile	Present
Senator Juan M. Flavier	Present
Senator Teofisto T. Guingona Jr.	Present
Senator Gregorio B. Honasan	Present
Senator Robert S. Jaworski	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	Absent
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 21 senators present, there is a quorum.

The Majority Leader is recognized.

THE JOURNAL

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

The President. Is there any objection?

Senator Guingona. Mr. President.

The President. The Minority Leader is recognized.

Senator Flavier. Just one question, if I may be allowed, Mr. President.

Is the gentleman referring to the individual amendments manifested today for approval one by one, but the total committee amendments I manifested last week will already be approved as a whole?

Senator Drilon. Together with the individual amendments already so that if there are committee and individual amendments in Section 2, for example, that would now be approved *in toto* once more. It is now difficult for the Secretariat to trace which of the committee amendments were subjected to individual amendments and which were approved. The committee amendments, technically, have not yet been approved.

The President. When does the gentleman want to have a clean draft?

Senator Drilon. If we can have it by tomorrow, Mr. President, we can complete and close the period of amendments by tomorrow afternoon, and have this bill approved on Second Reading by tomorrow.

The President. The Secretary is requested to prepare a new, updated clean draft embodying all the amendments by tomorrow.

Senator Drilon. May we also invite the attention of the Chair that there are amendments subject to style from Senator Pimentel which will also be reflected in precise language.

Senator Flavier. Yes. With the help of the Secretariat and my staff, we shall do our level best to be ready by tomorrow afternoon, Mr. President.

Senator Drilon. So that the amendments tomorrow will be approved one by one just because of the technicality that we were not able to approve the committee amendments which, at this point, may have been amended by individual amendments and approved by the Chamber.

Senator Flavier. I understand, Mr. President, and I accept.

SUSPENSION OF CONSIDERATION OF S. NO. 1554

Senator Drilon. With that, Mr. President, I move that we once more suspend consideration of Senate Bill No. 1554.

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

Senator Flavier. Thank you, Mr. President.

SUSPENSION OF SESSION

Senator Drilon. I move that we suspend the session for one minute just to check as to whether Senator Magsaysay is ready on the e-commerce bill.

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

It was 4:54 p.m.

RESUMPTION OF SESSION

At 5:00 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

BILL ON SECOND READING
S. No. 1902—E–Commerce Law
(Continuation)

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

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1902 is now in order.

Senator Drilon. Mr. President, we are in the period of interpellations. May I ask that the committee chairman and principal sponsor, Sen. Ramon B. Magsaysay Jr., be recognized.

The President. Sen. Ramon B. Magsaysay Jr. is recognized.

Senator Drilon. May I also ask that Sen. Francisco S. Tatad be recognized for the interpellation.

The President. Sen. Francisco S. Tatad is recognized.

Senator Tatad. Thank you very much, Mr. President.

Will the distinguished sponsor yield for a few questions, Mr. President?

Senator Magsaysay. Willingly, Mr. President.

Senator Tatad. Mr. President, Senate Bill No. 1902 under Committee Report No. 179 is a new bill that replaces Senate Bill No. 1523—

Senator Magsaysay. That is true, Mr. President.

Senator Tatad. —which has been previously reported to the Chamber under Committee Report No. 34, is it not? This means that the original bill had been recommitted to the committee but instead of reporting out the same, the committee decided to report out a completely new one. Is that correct?

Senator Magsaysay. Basically, the statement of the senator from Catanduanes is correct. However, 80 percent of the content of the original Senate Bill No. 1523 is based on the UNCITRAL Trade Law, the United Nations Commission on Internal Trade Law. However, the committee deemed it necessary and has decided to put out a new version, a new committee report so that the matrix would be easier to follow comparing the Singapore, the UNCITRAL, and our own versions. This is now embodied in Senate Bill No. 1902 which is still basically 80 percent UNCITRAL-based.

Senator Tatad. What was the real reason for the recommitment, Mr. President?

Senator Magsaysay. The reason for the recommitment was elicited during the period of interpellations when the senator from Camarines Sur, Senator Roco, found it a little complicated comparing this version with the model law in terms of following through. He proposed that we go back basically to the model law so that when there are questions to be asked on certain provisions of the e-commerce law, the frame of reference would be the model law and not our own unique, exclusive and new version; meaning, having an international standard on which to base some decisions, if there is a need to.

Senator Tatad. Was it not possible to simply correct the perceived defects of the original bill, during the period of amendments?

Senator Magsaysay. Initially, what we felt was it would be easier; but when it came to our technical working group; we decided to simplify matters. We have decided to use the bulk of the model law.

Mr. President, may I quote our *Journal* of February 1, 2000 with the interpellation of Senator Roco. It says here:

> Senator Roco believed that the bill would be difficult to understand considering that Singapore law has different roots in terms of legal development. He inquired why Singapore was particularly chosen instead of the standard references. Likewise, he asked on the jurisprudence that would prevail in legal cases—that of Singapore, that of the international community by usage,

custom, or convention; or as understood by the United Nations' agencies.

Senator Tatad. That was one member's impression of the bill, and the committee found no difficulty in accepting that. In any case, I am just trying to inquire into the basis of the recommitment.

Were fresh committee hearings conducted after the recommitment of the bill? Were there any other hearings?

Senator Magsaysay. There were no public hearings.

Senator Tatad. Why was that?

Senator Magsaysay. Because this bill is basically the same as the original bill based on the public hearings conducted last year. It is simply the way it is presented. Because 80 percent of Senate Bill No. 1902 is based on the UNCITRAL Law. The technical working group simply worked on the model law, on UNCITRAL, and came out with a new committee report based on the public hearings of the previous months signed by the committee members.

Senator Tatad. Mr. President, I understand the reply of our distinguished colleague. But under Rule XI, Section 32 of the *Rules of the Senate*, it says:

> When a report is returned to a committee or is transmitted to another, unless it is returned for purposes of conducting further public hearings on new matters arising after the report, all previous proceedings in connection therewith shall be deemed to be void and that matter in question shall revert to its original status.

This means that once the report reverted to the committee, the committee had in its possession an original measure that should have been heard, as though there had been no previous hearings beforehand. I think that is the correct interpretation of Rule XI. I am not going to town on this issue, Mr. President. I just wanted to point this out because this is an important rule; and we do not want to create a precedent for future legislation.

Senator Magsaysay. I would like to mention here that the Majority Leader took note of this on the query of Sen. Sergio R. Osmeña III, on whether Senate Bill No. 1523 would be referred back to the committee. Senator Drilon clarified that it would not, as there were instances in the past where the Body, in order to facilitate the proceedings, discussed the draft of a bill as of a certain date without referring it back to the committee. In this instance, he said that the *Rules of the Senate* was presumed to have been suspended to allow the Body to debate on a new draft. That was the level of reply of the Majority Leader.

Senator Tatad. As I said, I am not going to town on this. I am not going to make a federal case. I just wanted to invite attention to this because the new bill bears a different number. It is not simply a new version; it carries a new number under a new committee report. So the presumption is that the committee did undertake new work on the old bill, to come out with a committee report and a new bill. In any case, this is a friendly interpellation. We are here to learn from the sponsor.

We heard the sponsor say that 80 percent of the original bill is carried into the new bill. But what, in fact, is the difference between the two bills? How different is the present bill from the previous one, and in what way are the two similar?

Senator Magsaysay. The differences, Mr. President?

Senator Tatad. Yes. The similarities and differences, Mr. President.

Senator Magsaysay. Thank you, Mr. President.

All those lines, sentences or sections that we have in our present Senate Bill No. 1902, are non-UNCITRAL. I think we have the same version. So, in effect, the *Short Title* and *Declaration of Policy* are not included in the model law on page 1.

On page 2, Chapter I, *General Provisions*, the Objective, under Section 3, from lines 6 to 11, is also non-UNCITRAL. Meaning, it is not included in the model law.

Under Section 4, lines 13 and 14, we have a line and a half that are inputted by the technical working group.

Then the definition of "Computer" is not in the model law. We included the definition of "Computer" on page 2, lines 21 to 30.

"Hacking," which is on page 3, lines 6 to 10, is not defined in the model law. But we have this because of the present problems that are actually being faced by websites all over the world. So the rest are UNCITRAL, up to Section 20.

Senator Tatad. Mr. President, I do not know how many of us are familiar with the UNCITRAL model law. So the statement of our distinguished colleague will need a lot of study before we are able to understand it. I was hoping he would be able to summarize for us the principles that are contained in the previous bill which have been retained in the present bill and those that were taken out. If there are any new provisions that were not in the old bill, we would like to know. Just a general statement of principles.

Senator Magsaysay. Thank you, Mr. President. In effect, what we are stating here is that in the previous version, Senate Bill No. 1523, 80 percent of its content was based on UNCITRAL Law, like legal recognition of data message, acknowledgment of receipt, admissibility of data messages, carriage of goods, validity of contracts. Government use is also in the older version and original documents, but the role of the Department of Trade and Industry is also inputted locally. That is in the original version and also in this version. UNCITRAL does not include penalties. It includes penalties in both the original and our version. Philippines is going to be one of the UNCITRAL...

Senator Tatad. I will not press the point further, Mr. President. It is now clear what the sponsor is saying, that 80 percent of the present proposal is coming from the UNCITRAL model law in electronic commerce.

Now, the question is as follows, Mr. President. The UNCITRAL model law was adopted in 1996 after having gone through the UN process for some time. Given the time that elapsed from the time this measure was first conceived and the time it was finally adopted by the UN General Assembly, will the sponsor kindly tell us whether this law had not, in fact, been rendered obsolete by the rapid developments in technology by the time it was adopted by the General Assembly? And whatever is the answer of our distinguished sponsor, I would like to know on what authority that answer is based.

Senator Magsaysay. Yes, Mr. President. Basically, since 1996, the developments are technological in nature. The main objective of the UNCITRAL Law is to lay down the legal framework of doing e-commerce, including electronic data interchange, et cetera, e-commerce in general. So that the electronic documents that are churned out during these transactions, whether it is an agreement, a contract or data, will be made admissible and will be accepted in court. That basic framework is still the same that governs new laws, whether it is the latest one of the Singapore or even the newer one of the Philippines—to make admissible in court electronic documents.

Senator Tatad. Mr. President, I appreciate the superiority of principles over technical details. But in the case of information technology, the development in technology has a direct impact on the application of principles, as I intend to show later.

So I am interested in finding out whether this law, when it was adopted by the UN, was still current in relation to the state of the art, or has it been left behind by technology even while it was being adopted by the UN General Assembly?

I am also interested in finding out how many countries have, in fact, adopted the UNCITRAL Law verbatim and what has been their experience with it.

Senator Magsaysay. This is a law that is technology-neutral.

Meaning, those countries have adopted this law, like Singapore. I think Malaysia also.

Senator Tatad. No, not Malaysia.

Senator Magsaysay. Thailand has its own, although these are not bundled together. I have the Thailand law here. Also, the US did not bundle this as Singapore and the Philippines are trying to do. The core of the UNCITRAL Law, the model law, is in Chapter II, the application of Legal Requirements to Data Messages. And these still hold true insofar as I know, Mr. President.

Senator Tatad. So that we can cut into the technological meat of this bill, we will now examine how e-commerce is going to be affected by this proposed law. Right now, Mr. President, when one wants to buy some books through the Internet, he clicks on amazon.com, and he places his order and uses his credit card to consummate the process. This, I suppose, is one limited form of e-commerce.

Senator Magsaysay. That is correct, Mr. President.

Senator Tatad. But e-commerce goes far beyond retail mail-order transactions through the computer. It covers agreements and contracts using digital signatures. Does it not, Mr. President?

Senator Magsaysay. That is correct, Mr. President.

Senator Tatad. This is perhaps what we should try to understand better. But before I propose any technical questions, I would like to know from the sponsor whether the committee has on hand a technical expert who might be in a position to help sort out these technical issues. I know the sponsor is a well-qualified technical person. But since e-commerce is a new thing, it should be helpful to have a technical expert around.

Senator Magsaysay. I think, right now, we have legal specialists. I do not have technical experts, although I will try to answer the questions that might be asked by the good senator.

Senator Tatad. Thank you very much, Mr. President. With that assurance, I now feel encouraged to exhaust my curiosity on this measure.

Mr. President, e-commerce is supposed to replace face-to-face transactions in an increasingly paperless society. For this reason, the central issue which an e-commerce law must address—and I hope this is the point being addressed by this measure—is how to make sure that people and organizations doing business on the web are exactly who they claim to be. Would this be a correct statement?

Senator Magsaysay. That is correct, Mr. President.

Senator Tatad. If the statement is indeed correct, the question that logically follows is this: How then does the proposed law guarantee that people and organizations doing business on the web are exactly who they claim to be?

Senator Magsaysay. Mr. President, it is not anymore different from ordering through the catalogs, let us say, during the earlier part of the last century from Sears Roebuck or JC Penny, lately maybe from Lance End or Eddie Bauer. These merchandise companies before and even now put out catalogs. These are thick books that show the catalog numbers of what they are selling—what are available.

By sending this to prospective consumers or users, they are saying, "Ergo, Sears Roebuck is happy to give you this thick catalog book with all the consumer goods—food, garments, textiles and even appliances."

If one is interested in buying, he calls certain numbers. So how sure are we that the one who will answer is from Sears Roebuck, simply because these telephone numbers go to the Sears Roebuck interchange? When one, for example, wants to order six pieces of shirts, 12 pairs of socks, six pieces of neckties, let us say, he has a total of $80, he is even calling his card number. Sears Roebuck will say, "Yes, Senator Tatad, we got your card number. It was approved by the bank which issued the card so we will send it to you."

Now, we are just using e-commerce, meaning electronic and the computer, and doing the same thing like ordering from amazon.com, which is an entity in America, conducting business through e-commerce trade and supplying books.

So it is up to the consumer to find out if there is such a thing as Sears Roebuck or if there is such a thing as amazon.com. It is up to the consumer—as they say, *caveat emptor*—to find out if there is such an entity and what reputation of reliability it has. So this is the purpose of the bill, Mr. President.

Senator Tatad. Mr. President, I thank our distinguished colleague for that answer. I have no difficulty appreciating that illustration. But that, indeed, is a very limited illustration of e-commerce. I would like to go a little beyond the mail order example.

Mr. President, the bill itself speaks of data message, defined as 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.

EDI, in turn, is defined as electronic transfer from computer to computer of information using an agreed standard to structure the information. This definition, as far as I can see, is at variance with our understanding of EDI as the automatic electronic exchange of corporate data, particularly boring, nitty-gritty things like parts orders, manufacturing instructions, or inventory data. But we shall return to that later.

My question is as follows:

When we begin to use data messages, we have to make sure that these messages are indeed accurate, verified to be complete and unaltered. So the question that comes to mind is, first, how can this message in fact be verified to be complete and unaltered?

Second, who does the verification?

Third, what electronic means are available to do that?

These are questions that, I believe, should be answered in the bill. But there is nothing in the bill that tries to answer these questions.

Senator Magsaysay. Mr. President, there are various ways to determine whether a data or document has not been altered or even damaged during transits. There are such practices as "Click Redundancy Checks" or CRCs. But pertaining to e-commerce, the authenticity of the document or message, its state being unaltered,—meaning it retains its integrity and reliability—and even the identity of the sender can be verified by the certificate of authority which issues the digital certificates that contain the digital signature. I do not know if...

Senator Tatad. Yes. I follow. We are talking of certification authorities.

Senator Magsaysay. Yes, Mr. President.

Senator Tatad. I am happy that this was referred to. There is no disagreement. The certification authorities issue the digital certificate that contains the digital signature of the sender.

Senator Magsaysay. That is correct, Mr. President.

Senator Tatad. They certify that the message is authentic, that it is unaltered, and that it is being sent by the originator. We have no disagreement there. But we have one small problem. These certification authorities are available in Australia, New Zealand, Japan and Singapore. Pretty soon, they would be available in Hong Kong and South Korea. China, India, Indonesia, and Malaysia are only beginning to consider the possibility of setting up these certification authorities. But those existing in the countries that I have mentioned are operating independently of each other and are serving domestic markets only.

Of course, this is going to change because technology is moving so fast. Besides, they are connecting to one another in order to create international networks of trust for the safe and secure conduct of cross-border e-commerce. But until then, this facility does not exist and will not exist for some time in our country. The question then is: What entity would assume the function of the certification authorities? Better yet, absent a certification authority, how do we expect to conduct e-commerce in this country with enough confidence that everything is safe and secure?

Senator Magsaysay. The gentleman is correct that right now there is no certification of authority at this stage in our country. But we expect to be developing this CA in the near future. Because, No. 1, we want companies to choose the certificate of authorities they can mutually trust. It might be the government, or it might be nongovernment, or it might be even an international entity, or it might be combined.

The CA sources will be classified as third party under this bill. Because this bill does not limit its application to current technology. As of this stage, not any one has the highest expertise on this.

Right now, a trusted source usually issues the certificate of authority as mentioned by the gentleman from Catanduanes. Prior to issuing a certificate, the CA will require some proof of identity. The procedures that a CA uses are codified in a document called "certificate practices statement." So, it is basically on a level of trust.

Of course, the function of the CA, Mr. President, may I repeat here, is a service interface that handles the process of applying for a certificate. That is the registration authority.

Senator Tatad. Mr. President, all that information is indeed very useful. But if we do not have the facility in existence in the country, how do we expect to conduct e-commerce? Would it not be impossible to assume the reliability of data messages if there is no existing organization that will certify the authenticity of the message, that will certify that the message has not been altered or tampered with, and that will also certify that it is being sent by the original sender? These are the problems. And the bill does not have anything in it that tells us there is a transitory arrangement pending the establishment of certification authorities in the country or pending the connection of the international networks to this country.

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Senator Magsaysay. That is correct, Mr. President. The bill does not provide for such an entity that will handle the certificate of authority because it intentionally intends to have the private sector take the initiative on the certificate of authority. This will be like whichever entity has the level of trust, whether it is a bank, or the Bankers' Association of the Philippines or Bancnet. These are all privately driven so that at a certain point we are looking at the ATM now—what is happening—and that eventually, the people will know that when they go into a BPI express credit or to a Megalink, or to a Bancnet, there are no laws that govern these, except maybe some Bangko Sentral rules and regulations. Also, the public will eventually get to trust the ATM machines as actually part of electronic commerce.

Senator Tatad. Mr. President, perhaps we can leave that behind for the moment and go back to it later when we have more information. I would like to invite the sponsor's attention to Section 11 of the bill. In Section 11, we read:

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 presented.

My question is, what constitutes "reliable assurance?" Who vouches for that reliable assurance? In the presentation of the information, who certifies that the information being displayed has not been tampered with or altered?

Senator Magsaysay. For that matter, Mr. President, the two parties doing the transaction, meaning the supplier and then the consumer or buyer, would decide what is reliable and still untampered. Because whenever a transaction is done, there is always an agreement that the consumer is supposed to read and understand, and he will have to use his digital signature and say, "I accept" or "I disagree", "I accept or cancel." That is the acceptance of the terms and conditions of the transaction.

Senator Tatad. Mr. President, what I am trying to ask is, how does the other party arrive at the decision to accept or to reject since the element of reliability has to be determined first? That is the basis of his accepting or rejecting. What is "reliable assurance?" There should be an objective norm perceivable to the parties concerned. What is that norm? This is the question, Mr. President.

Senator Magsaysay. As I mentioned earlier, this is the functional equivalent of the criteria that is being met. When one accepts the terms and conditions, that is in itself already the original document as long as it retains its integrity. I know of other parties that when they accept these terms and conditions, they will download and print the document, or they will use reliable electronic data interchange source.

Senator Tatad. Mr. President, I will not press that point. As in the previous point, we can go back to it, I believe, at a later time when we would have acquired sufficient information.

I would go to Section 13. In Section 13, we read:

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;

(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 it enables the identification of the original and destination of a data message and the time when it was sent or received.

I have a couple of questions concerning letter (a). Where will the retained document be stored? Will it be a trusted third party?

Senator Magsaysay. This will be restored in the data base of the supplier or a trusted third party.

Senator Tatad. Which is which?

Senator Magsaysay. Either or both.

Senator Tatad. Is there no preference? Is this practice being followed in any jurisdiction?

Senator Magsaysay. From my technical staff, it is being practiced.

Senator Tatad. Where is it being practiced?

Senator Magsaysay. Trading partners agreement or a partnership.

Senator Tatad. I am getting lost.

Senator Magsaysay. May I try to make it more understandable.

There is a bigger use of e-commerce rather than just ordering books or appliances or consumer goods.

Senator Tatad. That is true. We never intended to limit it to ordering books or appliances.

Senator Magsaysay. Yes, Mr. President. This is business to business and this is now being practiced by Shoemart. Shoemart is one of the leaders using e-commerce in its transaction. It has over 1,500 local suppliers, 500 of which are using e-commerce. What does this mean? That Shoemart, without need for any paper or purchase order or for invoices or statements or proposals, has embraced the practice of using electronic commerce to place orders with its suppliers. Copies of these electronic documents are stored in a third party data bank.

So, in effect, the suppliers—there are 500 of them—have accepted that their market, Shoemart purchasing office, will no longer call them but will send their needs through the Internet and order 1,000 pairs of shoes from a Marikina Valley manufacturer with the following designs and prices, et cetera.

Senator Tatad. Thank you, Mr. President. I think we can revisit that point later.

Just to continue. Concerning letter (b), who certifies that the document really came from the originator thereof?

Senator Magsaysay. The third party will certify that indeed that document...

Senator Tatad. Which is the third party, the certification authority?

Senator Magsaysay. The third party might be the value-added service provider or the VASP, or it could be an ISP or it could be a value-added network or even a bank that is trusted by the supplier and the buyer, agreed by them through mutual trust and agreement.

Senator Tatad. This is a very interesting innovative response. But to the best of our knowledge, in most, if not all, jurisdictions, it is the certification authority that provides the service.

Senator Magsaysay. Well, in our case, there is no certification authority.

Senator Tatad. Which we do not have here.

Senator Magsaysay. Yes. That is why they have to make do with a party that they both trust.

Senator Tatad. And should that not be defined in the bill?

Senator Magsaysay. We want to stay away from this to make the bill as flexible as possible for future developments. Because it could be that there might be one body or a hundred bodies that will be accredited, not by the government but by users and both the consumer and the buyer. And let that entity or those entities surface based on their dependability, their trust and their efficiency.

Senator Tatad. We will, I think, have time to look at that position a little bit more later, Mr. President.

For now, concerning letter (c). Who determines the date? From whose point of view will the date be fixed? From the originator, from the recipient, or from the trusted third party?

Senator Magsaysay. The third party records the date.

Senator Tatad. Let me explain, Mr. President. This question arises because two communicating systems might not have the same time setup in their respective computers. Also, the network of service providers through whom the message was sent could have a different date as well. A reference date would have to be agreed upon by the systems involved. Of course, in practice, the certification authority has time-stamping capabilities that can be used both by the originator and the recipient to record the time of sending and/or receiving of the document.

But in any case, I believe this must be clearly defined: How is the date going to be set?

Senator Magsaysay. Indeed, that is true, Mr. President. If we look at Section 16, line 24, paragraph (4), it says: "as of the time when the addressee has both received notice from the originator..."

Senator Tatad. Section 18, I believe.

Senator Magsaysay. This is Section 16, line 24. Well, it may be Section 18. But we can start with Section 16 to define the attribution of the validity of the data message or messages.

So in line 24, Section 16, it says here:

(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.

This is on the validity.

Senator Tatad. ─Mr. President, I do have a number of questions still that I would like to ask. But in view of the time constraint, I will limit myself for now to just probably one more question before I ask to suspend. But before doing that, I would like to give our colleague fair notice that when we meet next time, I shall be asking about digital signatures and the public key infrastructure related to digital signatures. These are rather technically complicated.

So I would like to give some kind of advance notice that I would like to dwell on this because it is important to the workings of e-commerce.

For now, I would just like to ask why hacking is penalized under this bill.

Senator Magsaysay. Is the distinguished gentleman asking me now why "hacking" is penalized?

Senator Tatad. Yes, Mr. President.

Senator Magsaysay. First of all, we have to define what "hacking" is.

Senator Tatad. Yes, the definition of the word "hacking" appears on page 3. It is a departure from the internationally accepted definition of hacking. Here, hacking is a criminal act.

"Hacking" is simply any piece of programming often inspired by the need to solve a work around a specific problem. This is what a hacker does. And a hacker is a skilled and dedicated programmer who enjoys exploring the details of programmable systems and how to stretch their capabilities as opposed to most users who prefer to learn only the minimum necessary.

But, of course, in the common argot these days, the word "hacker" has come to be identified with a computer prankster dedicated to achieving unauthorized entry into, say, NASA's mission computers just to be able to say he was there. So we have the popular usage but the scientific technical usage is different from the popular.

So I have to raise this point because we are writing a law, and it should be based on scientific information, not on the argot in the street.

Senator Magsaysay. Yes, Mr. President.

At this juncture, the Senate President relinquished the Chair to Sen. Juan M. Flavier.

Senator Tatad. Thank you, Mr. President.

With that, Mr. President, I would like to ask a suspension of my interpellation until tomorrow or whenever the Majority Leader would call again this measure.

Thank you, Mr. President.

The Presiding Officer [Sen. Flavier]. The Majority Leader is recognized.

Senator Drilon. Yes, Mr. President. Under those circumstances, we take note of the reservation of Senator Tatad to continue his interpellation at a later time.

SUSPENSION OF CONSIDERATION OF S. NO. 1902

I now move that we suspend consideration of Senate Bill No. 1902 under Committee Report No. 179.

The Presiding Officer [Sen. Flavier]. There is a motion to suspend consideration of Senate Bill No. 1902 under Committee Report No. 179. Is there any objection? *[Silence]* There being none, the motion is approved.

ACKNOWLEDGMENT OF THE OFFICIAL VISIT
OF LOCAL OFFICIALS FROM ORIENTAL MINDORO

Senator Drilon. Mr. President, before we adjourn, may I first acknowledge for the record—I do not know if they are still around but we wish to acknowledge for the record—the local officials of the province of Oriental Mindoro.

The Presiding Officer [Sen. Flavier]. Their presence is noted. Many of them are in the Senators' Lounge. The reason I know is they are waiting for me. *[Laughter]*

ADJOURNMENT OF SESSION

Senator Drilon. In that case, Mr. President, I move that we adjourn the session until three o'clock tomorrow afternoon.

The Presiding Officer [Sen. Flavier]. Is there any objection? *[Silence]* There being none, the session is adjourned until tomorrow, Tuesday, February 22, 2000, at three o'clock in the afternoon.

It was 5:54 p.m.