

RECORD OF THE SENATE

TUESDAY, JULY 25, 2000

OPENING OF THE SESSION

At 3:27 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The second session of the Third 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.

Everybody rose for the prayer

PRAYER

Senator Barbers.

Lord Jesus, we come to You in our need, create in us an awareness of the massive forces of conflict that threaten our country today and grant us a sense of urgency to activate the forces of goodness, of justice, of love, of peace and of reconciliation.

Where there is armed conflict, especially in Mindanao, let us stretch out our arms to our brothers and sisters.

Where there is abundance, let there be simple lifestyle and sharing.

Where there is poverty, let there be dignified living.

Where there is destruction, let there be repair and rehabilitation.

Where there is selfish ambition, let there be humble service.

Where there is injustice, let there be atonement.

Where there is despair, let there be hope in the good news.

Where there are wounds of division, let there be unity and wholeness.

Help us to be committed to the building of Your kingdom:

Not seeking to be cared for, but to care.

Not expecting to be served, but to place ourselves in the service of others.

Not aspiring to be materially secure, but to place our security in Your love.

Teach us Your Spirit for it is only in loving imitation of You, Lord, that we can discover the healing springs of life that will bring hope for the world.

Mama Mary, Queen of Peace, pray for us and our brothers and sisters in Mindanao.

We ask this through our Lord Jesus Christ Who lives with the Father in union with the Holy Spirit, one God forever and ever.

Amen.

The President. 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	*
Senator Renato L. <i>Compañero</i> Cayetano ..	Present
Senator Anna Dominique M.L. Coseteng ..	Present
Senator Miriam Defensor Santiago	Present
Senator Juan Ponce Enrile	Absent**
Senator Juan M. Flavio	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 Blas F. Ople	*
Senator John Henry R. Osmeña	*
Senator Sergio R. Osmeña III	Present
Senator Aquilino Q. Pimentel Jr.	Present
Senator Ramon B. Revilla	Present
Senator Raul S. Roco	*
Senator Vicente C. Sotto III	Present
Senator Francisco S. Tatad	*
The President	Present

The President. With 16 senators present, there is a quorum.

* On official mission

** On account of illness

REGIONAL TRIAL COURT JUDGE MANUEL MURO TO BE CONFINED IN THE HOSPITAL; THE REPORTED PREFERENTIAL TREATMENT BY CORRECTIONAL OFFICIALS OF YU; AND THE REPORTED PARTICIPATION AND INTERFERENCE IN THE CASE BY COURT OF APPEALS ASSOCIATE JUSTICE DEMETRIO DEMETRIA AND PHILIPPINE AMATEUR TRACK AND FIELD PRESIDENT GOTENGKOK

Introduced by Senator Cayetano

The President. Referred to the Committees on Justice and Human Rights; and Public Order and Illegal Drugs

The Secretary. Proposed Senate Resolution No. 820, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON JUSTICE AND HUMAN RIGHTS TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE REPORTED MASSACRE OF TWENTY-ONE PERSONS IN A MOSQUE IN BUMBARAN, LANA DEL SUR BY A BAND OF UNIDENTIFIED ARMED MEN

Introduced by Senator Guingona Jr.

The President. Referred to the Committee on Justice and Human Rights

COMMUNICATIONS

The Secretary. Letter from Governor Rafael B. Buenaventura of the Bangko Sentral ng Pilipinas, respectfully recommending for the inclusion in the pending bill for the amendment of the New Central Bank Act (R.A. No. 7653) of the authority of the Monetary Board to authorize the examination of deposit accounts involving an amount of at least One Million Pesos or its equivalent in foreign currency where there is reasonable ground to believe that such are being used in relation to a fraud or irregularity.

The President. Referred to the Committee on Banks, Financial Institutions and Currencies

The Secretary. Letter from Executive Secretary Ronaldo B. Zamora of the Office of the President of the Philippines addressed to the Speaker of the House of Representatives and copy furnished the Senate, transmitting the letter of His Excellency, President Joseph Ejercito Estrada, certifying to the

necessity of the immediate enactment of House Bill No. 11833, entitled

AN ACT PRESCRIBING URGENT RELATED MEASURES NECESSARY AND PROPER TO EFFECTIVELY ADDRESS THE CURRENT SOCIO-ECONOMIC EMERGENCY IN MINDANAO, AND FOR OTHER PURPOSES,

pursuant to the provisions of Article VI, Section 26 (2) of the Constitution.

The President. Referred to the Committee on Rules

The Secretary. Letter from Mr. Enrique M. Zalamea, President and CEO of the Philippine Health Insurance Corporation, submitting to the Senate the Revised Implementing Rules and Regulations of the National Health Insurance Act of 1995 (R.A. No. 7875).

The President. Referred to the Committee on Health and Demography

The Secretary. Letter from General Counsel Juan De Zuñiga Jr. of the Bangko Sentral ng Pilipinas, transmitting to the Senate a copy of the attachment for the Bangko Sentral ng Pilipinas Circular No. 249, Series of 2000, dated June 26, 2000, in compliance with Section 15(a) of Republic Act No. 7653.

The President. Referred to the Committee on Banks, Financial Institutions and Currencies

Senator Sotto. Mr. President.

The President. The Majority Leader is recognized.

SPECIAL ORDERS

Senator Sotto. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders, Committee Report No. 200 on Senate Bill No. 1956, entitled

AN ACT TO MANAGE CAVES AND CAVE RESOURCES.

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

Senator Sotto. Mr. President, before I move for the consideration of this bill on Second Reading, Sen. Sergio R. Osmeña III would like to take the floor for a point of personal privilege.

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

QUESTION OF PRIVILEGE OF SEN. OSMEÑA III
(On Newspaper Report About His Absence
During the SONA)

Senator Osmeña III. Thank you, Mr. President.

This morning, in one of the newspaper reports on the SONA yesterday, it mentioned that this representation was absent because he was on a foreign trip. It is not true, Mr. President. I was sick yesterday. But I also would like to inform the Chamber for the record that I have never been on any foreign trip at the expense of the Senate since I was elected senator.

Thank you, Mr. President.

The President. The Chair would like to thank Senator Osmeña III.

Senator Sotto. Mr. President.

The President. The Majority Leader is recognized.

BILL ON SECOND READING
S. No. 1956 — National Caves and Cave
Resources Management and Protection Act

Senator Sotto. Mr. President, I move that we consider on Second Reading Senate Bill No. 1956 as reported out under Committee Report No. 200.

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

Consideration of Senate Bill No. 1956 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. 1956, entitled

AN ACT TO MANAGE CAVES AND CAVE
RESOURCES AND FOR OTHER PURPOSES

The following is the whole text of the bill:

Senate Bill No. 1956

AN ACT TO MANAGE CAVES AND CAVE
RESOURCES AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* - This Act shall be known as the "National Caves and Cave Resources Management and Protection Act."

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to conserve, protect and manage caves and cave resources as part of the country's natural wealth. Towards this end, the State shall strengthen cooperation and exchange of information between governmental authorities and people who utilize caves and cave resources for scientific, educational, recreational, tourism and other purpose.

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

(a) "Cave" means any naturally occurring void, cavity, recess or system of interconnected passages beneath the surface of the earth or within a cliff or ledge and which is large enough to permit an individual to enter, whether or not the entrance, located either in private or public land, is naturally formed or man-made. It shall include any natural pit, sinkhole or other feature which is an extension of the entrance. The term also includes cave resources therein, but not any vug, mine tunnel, aqueduct or other man-made excavation;

(b) "Cave resources" includes any material or substance occurring naturally in caves, such as animal life, plant life, including paleontological and archaeological deposits, cultural artifacts or products of human activities sediments, minerals, speleogems and speleothems;

(c) "Secretary" means the Secretary of the Department of Environment and Natural Resources (DENR);

(d) "Speleogem" means relief features on the walls, ceilings and floor of any cave or lava tube which are part of the surrounding bedrock, including but not limited to anastomoses, scallops, meander niches, petromorphs and rock pendants in solution caves and similar features unique to volcanic caves;

(e) "speleothem" means any natural mineral formation or deposit occurring in a cave or lava tube, including but not limited to any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone or formation of clay or mud;

(f) "Significant cave" refers to a cave which contains materials or possesses features that have archaeological, cultural, ecological, historical or scientific value as determined by the DENR in coordination with the scientific community and the academe.

SEC. 4. *Implementing Agency.* - The DENR shall be the lead agency tasked to implement the provisions of this Act in coordination with the Department of Tourism (DOT), the National Museum and concerned local government units (LGUs) for specific caves, except that in the Province of Palawan, the Palawan Council for Sustainable Development shall be the lead implementing agency pursuant to Republic Act No. 7611 or the Strategic Environmental Plan for Palawan Act.

SEC. 5. *Powers of Functions of the Department of Environment and Natural Resources (DENR).* - In the implementation of this Act, the DENR shall exercise the following powers and functions:

(a) Formulate, develop and implement a national program for the management, protection and conservation of caves and cave resources;

(b) Disseminate information and conduct educational campaign on the need to conserve, protect and manage our caves and cave resources;

(c) Issue permits for the collection and removal of guano and other cave resources which shall be determined in coordination with the DOT, the National Museum, concerned LGUs, the scientific community and the academe, with regard to specific caves taking into consideration bio-diversity as well as the aesthetic and archaeological value of the cave: *Provided*, That the permittee shall be required to post a bond to ensure compliance with the provisions of any permit: *Provided, further*, That any permit issued under this Section shall be revoked by the Secretary when the permittee violates any provision of this Act or fails to comply with any other condition upon which the permit was issued: *Provided, furthermore*, That the Secretary cannot issue permits for the removal of

stalactites and stalagmites, and when it is established that the removal of the resources will adversely affect the value of a significant cave: *Provided, finally*, That caves located within a protected area shall be subject to the provisions of Republic Act No. 7586 or the National Integrated Protected Areas System Act of 1992;

(d) Call on any local government unit, bureau, agency, state university or college and other instrumentalities of the government for assistance as the need arises in the discharge of its functions;

(e) Enter into a memorandum of agreement with any local government unit (LGU) for the preservation, development and management of cave or caves located in their respective territorial jurisdiction;

(f) Tap the cooperation of people's and non-governmental organizations as active partners in the conservation and protection of our caves and cave resources; and

(g) Exercise other powers and perform other functions as may be necessary to implement the provisions of this Act.

SEC. 6. *Information Concerning the Nature and Location of Significant Caves.* - Information concerning the nature and specific location of a potentially significant cave shall not be made available to the public within one (1) year after its delivery by the DENR, during which time the DENR, in coordination with the DOT, the National Museum, concerned LGUs, the scientific community and the academe, shall assess its archaeological, cultural, ecological, historical and scientific value, unless a written request is made and the Secretary determined that disclosure of such information will further the purpose of this Act and will not create a substantial risk of harm, theft or destruction on such cave.

The written request shall contain, among others, the following:

(a) a description of the geographic site for which the information is sought;

(b) an explanation of the purpose for which the information is sought; and

(c) an assurance or undertaking satisfactory to

the Secretary that adequate measures are to be taken to protect the confidentiality of such information and to ensure the protection of the cave from destruction by vandalism and unauthorized use.

SEC. 7. *Prohibited Acts.* - The following shall be considered prohibited acts:

(a) Knowingly destroying, disturbing, defacing, marring, altering, removing or harming the speleogem or speleothem of any cave or altering the free movement of any animal or plant life into or out of any cave;

(b) Gathering, collecting, possessing, consuming, selling, bartering or exchanging or offering for sale without authority any cave resource; and

(c) Counseling, procuring, soliciting or employing any other person to violate any provision of this Section.

SEC. 8. *Penalties.* - Any person found guilty of any of the offenses enumerated under Section 7 hereof shall be punished by imprisonment from two (2) years to six (6) years or a fine ranging from Twenty thousand pesos (P20,000.00) to Five hundred thousand pesos (P500,000.00) or both, at the discretion of the Court: *Provided*, That the person furnishing the capital to accomplish the acts punishable herein shall be punished by imprisonment from six (6) years and one (1) day to eight (8) years or by a fine ranging from Five hundred thousand pesos (P500,000.00) to One million pesos (P1,000,000.00) or both, at the discretion of the Court: *Provided, further*, That if the area requires rehabilitation or restoration as determined by the Court, the offender shall also be required to restore the same, whenever practicable, or compensate for the damage: *Provided, finally*, That if the offender is a government employee, he or she likewise be removed from office.

SEC. 9. *Administrative Confiscation and Conveyance.* - The Secretary shall order the confiscation in favor of the government of the cave resources gathered, collected, removed, possessed or sold including the conveyances and equipment used in violation of Section 7 hereof.

SEC. 10. *Fees.* - Any money collected by the DENR as permit fees for collection and removal of cave resources, as a result of the forfeiture of a bond or other security by a permittee who does not comply

with the requirements of such permit issued under this Act or by way of fines for violations of this Act shall be remitted to the National Treasury.

SEC. 11. *Implementing Rules and Regulations.* - The DENR shall, within six (6) months from the effectivity of this Act issue rules and regulations necessary to implement the provisions hereof.

SEC. 12. *Appropriations.* - The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

SEC. 13. *Separability Clause.* - If any provision of this Act is subsequently declared unconstitutional, the remaining provisions shall remain in full force and effect.

SEC. 14. *Repealing Clause.* - Presidential Decree No. 1726-A is hereby modified. Treasure hunting in caves shall be governed by the provisions of this Act.

Except Presidential Decree No. 412 and Republic Act No. 4846, all other laws, decrees, orders and regulations, or parts thereof, which are inconsistent with any of the provisions of this Act are hereby repealed or amended accordingly.

SEC. 15. *Effectivity.* - This Act shall take effect fifteen (15) days following its publication in two (2) national newspapers of general circulation.

Approved,

Senator Sotto. May I move therefore that the Chair recognize the sponsor Sen. Robert S. Jaworski, for the sponsorship speech, Mr. President.

The President. Sen. Robert S. Jaworski is recognized to sponsor Senate Bill No. 1956.

SPONSORSHIP SPEECH OF SENATOR JAWORSKI

Senator Jaworski. Thank you, Mr. President. Thank you, Majority Leader.

Mr. President, distinguished colleagues, as chairman of the Committee on Environment and Natural Resources, I am pleased to report for the consideration of this Chamber Senate Bill No. 1956, entitled

AN ACT TO MANAGE CAVES AND CAVE
RESOURCES AND FOR OTHER PURPOSES.

In 1962, fragments of fossils or human bones were discovered in a cave named after the Megapode or tabon bird in the southwest coast of Palawan. Fossils of at least three individuals were found along with tools, implements, burial jars, and other artifacts, and were tentatively dated by carbon-14 determination to be from 22,000 to 24,000 years old. This discovery of the traces of the early homo sapiens or modern man during the post-pleistocene period led to one of the greatest archeological breakthroughs in the region which made the Tabon cave known as one of Asia's great upper paleolithic archeological sites.

The excavations and surveys from 1962 to 1970 by numerous exploration teams of the Tabon and other caves revealed an astonishing wealth and time-range of human artifacts. To name a few—a flake tool tradition dating back to the upper pleistocene period, about 5,000 to 9,000 years ago; a highly sophisticated jar burial complex which first appeared during the late neolithic period, about 3,500 years ago; and porcelain and stoneware vessels obtained in trade with South China during the Sung and Yuan dynasties from the 12th to the early 14th centuries A.D.

Needless to say, Mr. President, these excavations provided a detailed cultural chronology of an area in our country which embraces more than 50,000 years of Philippine prehistory.

Mr. President, distinguished colleagues, whether or not our caves will one day reveal porcelains, prehistoric tools or highly sophisticated burial jars, we cannot overemphasize the need to protect caves and their spectacular surrounding environment. Our country is blessed with more than 2,000 known caves, some of which were witnesses to our forefathers' quest for freedom and sovereignty. On the walls of the Pamitanan cave in Montalban (now Rodriguez), Rizal, Andres Bonifacio and seven other katipuneros wrote "*Viva La Independencia de Filipinas*" during the Holy Week of April 1895 and in 1897, Biak-na-Bato caves in San Miguel de Mayumo, Bulacan served as the headquarters of General Emilio Aguinaldo and his forces. Samarnon revolutionaries used the Sohoton caves in Basey, Samar as a hideout during the Filipino-American war. And in Cagayan de Oro, Misamis Oriental, the Makahambus cave was one of the last strongholds of the nation's defense against the U.S. intervention.

It is, therefore, fitting, Mr. President, that we consider a measure that will protect geological treasures and monuments to Filipino valor such as our caves. It is incumbent upon us to preserve and conserve these irreplaceable natural, cultural, archeological, and historical resources for future generations

as caves and the resources found therein are now being threatened by improper use, increased recreational demand and lack of legal protection.

Senate Bill No. 1956 declares it a policy of the State to conserve, protect and manage caves and cave resources as part of the country's natural wealth. It aims to strengthen the cooperation and exchange of information between governmental authorities and people who utilize caves and cave resources for scientific, educational, recreational, tourism and other purposes.

Mr. President, under the bill, the Department of Environment and Natural Resources shall implement the provisions of the law in coordination with the Department of Tourism, the National Museum and concerned local government units for specific caves, except those in Palawan, where the Palawan Council for Sustainable Development shall be the lead implementing agency pursuant to Republic Act No. 7611 or the Strategic Environmental Plan for Palawan Act.

Moreover, Mr. President, this bill also seeks to penalize with imprisonment ranging from two to six years or a fine ranging from P20,000 to P500,000 or both, at the discretion of the court, acts that would destroy, mar, alter, remove or harm the speleogem or speleothem of any cave, as well as the gathering, collecting, possessing or selling any cave resource without authority. Any person furnishing the capital to accomplish the prohibited acts shall likewise be punished by imprisonment from six years and one day to eight years or by a fine ranging from P500,000 to P1,000,000 or both, at the discretion of the court. If the area requires rehabilitation or restoration as determined by the court, the offender shall also be required to restore the same, whenever practicable, or compensate for the damage.

Mr. President, distinguished colleagues, being blessed with over 2,000 known caves gives us the inescapable responsibility of working toward its protection and conservation. And the first step in ensuring the conservation, protection and management of our caves and cave resources lies in our hands. For this reason, I ask for the approval of this measure that will fittingly conserve and protect our country's national wealth.

Thank you, Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1956

Senator Sotto. Mr. President, with the concurrence of the sponsor, I move that we suspend consideration of Senate Bill No. 1956.

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

BILL ON SECOND READING

S. No. 2038—Anti-Injunction Act of 2000
(Continuation)

Senator Sotto. Mr. President, I move that we resume consideration of Senate Bill No. 2038 as reported out under Committee Report No. 239.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2038 is now in order.

Senator Sotto. Mr. President, we are still in the period of interpellations. May I ask that the sponsor, Sen. Renato L. Compañero Cayetano, be recognized, and to continue her interpellation, Sen. Miriam Defensor Santiago.

The President. The principal sponsor, Sen. Renato L. Compañero Cayetano, is recognized, and to interpellate, Sen. Miriam Defensor Santiago.

Senator Defensor Santiago. Mr. President, will the gentleman yield for clarificatory interpellation considering that I support this bill?

Senator Cayetano. Yes, Mr. President. With great honor and much delight.

Senator Defensor Santiago. Thank you, Mr. President. I previously said that I support this bill, and I would like to enumerate the reasons:

No. 1. It is consistent with the view of no less than the Supreme Court itself which on June 25, 1999 issued an administrative circular, entitled "Exercise of Utmost Caution, Prudence and Judiciousness in Issuance of Temporary Restraining Orders and Writs of Preliminary Injunction."

Thus, to repeat, the bill is consistent with the world view taken on this matter by no less than the Supreme Court, the apex of our judicial system.

The second reason I support this bill is that it appears to me to be the proper response to widespread public demand for expeditious procedures concerning public works.

The third reason I support this bill is that it prevents a possible source of corruption in the judiciary. It is common knowledge among trial practitioners that sometimes there are

occasions when judges sell TROs. That is to say, for the proper bribe, a judge will issue a TRO regardless of the public interest involved.

Having said that, I would now like to proceed with the clarificatory questions. I would like to go through the pages chronologically. I will refer to Section 4 on page 2 of the bill. This is the section which sets out the procedures for acquisition of land or other real property, including expropriation.

We all know in the legal profession that expropriation proceedings are covered by Rule 67 of the *Rules of Court*. I think it is self-evident that Section 4 seeks to revise Rule 67 of the *Rules of Court*.

I believe that this debate has already been settled, but I will request the considered wisdom of the sponsor on this point: Is this section intended to amend *Rules of Procedure* promulgated by the Supreme Court? If so, what is the legal basis for this amendment on the part of the Legislature?

Senator Cayetano. I thank the lady senator for that clarificatory question.

Yes, Mr. President, to a certain extent, Section 4 would amend the provisions of the *Rules of Court* vis-a-vis on expropriation. I realize that the statement of the lady senator from Iloilo City and the Philippines is really relevant to this particular provision.

I am also aware that the Supreme Court in the *Echegaray* case has apparently made a ruling that only the Supreme Court has the exclusive jurisdiction of amending the *Rules of Court*.

The legal basis for this Section 4 which would, as I said, partly amend the *Rules of Court* on expropriation is the considered opinion of one of the members of the Constitutional Commission, no less than now Dean Joaquin Bernas of the Ateneo Law School where, in his book, he explained rather clearly that despite the absence of legislative power on amending the *Rules of Court* or *Rules of Procedure*, that nevertheless, the legislative body has an equal power to amend the *Rules of Procedure*.

With the permission of the lady senator, may I read into the *Record* the portion of the comment of Dean Joaquin Bernas. This is on page 871 of his book, *The 1987 Constitution of the Republic of the Philippines: A Commentary*, 1996 edition, where he said, and I quote:

In the end, Commissioner Aquino struck a compromise which omitted any mention of the power