

## RECORD OF THE SENATE

WEDNESDAY, JULY 26, 2000

### OPENING OF THE SESSION

*At 3:28 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.*

**The President.** The third 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. Renato L. Compañero Cayetano.

*Everybody rose for the prayer.*

**Senator Cayetano.** A part of this prayer was taken verbatim from *Prayers That Avail Much* by Germaine Copeland.

### PRAYER

Father, in the name of Jesus, we come before You to claim Your promise in II Chronicles 7:14: "If My people, who are called by My name shall humble themselves, pray, seek, crave, and require of My necessity, My face, and turn from their wicked ways, then will I hear from heaven, forgive their sin, and heal their land."

We are Your people, called by Your name. Thank you for hearing our prayers and moving by Your Spirit in our land. There are famines, earthquakes, floods, natural disasters, and violence occurring. Meek hearts are failing them because of fear.

Lord, Your Son Jesus spoke of discerning signs of the times. With the Holy Spirit as our Helper, we are watching and praying.

We desire to humble ourselves before You, asking that a spirit of humility be released in us. Thank you for a quiet and meek spirit, for we know that the meek shall inherit the earth.

Search us, O God, and know our hearts; try us, and know our thoughts today. See if there be any wicked way in us, and lead us in the way everlasting.

Forgive us our sins of judging inappropriately. Cleanse us with hyssop, and we will be clean; wash us, and we will be whiter than snow. Touch our lips with coals from Your altar that we may say prayers that avail much for all men and women everywhere.

And on this day, as we commemorate the 10th Anniversary of the Senate Ratification of the Convention on the Rights of Children, we seek Your special intercession on behalf of all children, particularly our nation's children and our own children. We ask You, Lord, to shield them from injury, illness and pain and also we ask You to protect them from drug dealers, from promoters of prostitution and from child abusers.

Finally, Father, as the nation longs for a genuine peace to reign in Mindanao, we pray for the officers and men of the AFP as peacekeepers; we also pray for the peacemakers and for the peacelovers as well.

All these we ask through Your Beloved Son, Jesus Christ.

Amen.

### ROLL CALL

**The President.** The Secretary will please call the roll.

**The Secretary, reading:**

Senator Teresa Aquino-Oreta .....	*
Senator Robert Z. Barbers .....	Present
Senator Rodolfo G. Biazon .....	*
Senator Renato L. Compañero Cayetano ....	Present
Senator Anna Dominique M. L. Coseteng ...	Present
Senator Miriam Defensor Santiago .....	Present
Senator Juan Ponce Enrile .....	*
Senator Juan M. Flavies .....	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 15 senators present, there is a quorum.

\*On official mission

Is there somebody in the Senate called "Others"? This is P112 million.

Mr. President, if the Senate so decides that this is going to be the sole prerogative of the leaders that be, so be it. But I feel that the *Rules of the Senate*, parliamentary practices around the world, and, of course, the concept of transparency that has been adequately bandied by all past and present administrations, tend to put the onus of proving that the budget is indeed aboveboard on those who implement the budget.

Let us go back first to the *Rules of the Senate*, since the Acting Majority Leader likes to cite the Rules. Committee on Accounts, 11 members. It says:

All matters relating to the auditing and adjustment of all accounts chargeable against the funds for the expenses and activities of the Senate.

Now, Mr. President, the Acting Majority Leader admitted that a meeting of the Committee on Accounts which is in charge of auditing has not been called for two years or three years. Who is watching? Do we have an Angel Gabriel here who is watching because I certainly do not know what is going on? We sure would like to know whether the Committee on Accounts, which is tasked with the responsibility of auditing the expenses of the Senate, has been doing its job, and obviously it has not been doing its job.

Mr. President, I think I will have to stand up here everyday to ask the Acting Majority Leader what is being done. I am hopeful that as a group, as a member of the same Chamber to which, I think, my forebears have contributed more than any of us individually have ever done for this Chamber, for its reputation, for its integrity, I hope that the members of the leadership in the Senate will be a little bit more forthright, candid, open and transparent as we seek to find ways to make this Chamber operate more efficiently, more effectively and perhaps, more in keeping with the mandate that the people gave us when they sent us here to be senators.

Thank you, Mr. President.

The President. The Majority Leader is recognized.

#### BILL ON SECOND READING

#### S. No. 1168—Prohibiting the Use of Hard Surfactants (Continuation)

Senator Sotto. Mr. President, I move that we resume consideration of Senate Bill No. 1168 as reported out under Committee Report No. 188.

The President. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 1168 is now in order.

Senator Sotto. The parliamentary status is that we are still in the period of interpellations.

#### SUSPENSION OF SESSION

I move that we suspend the session for one minute, Mr. President.

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

It was 3:56 p.m.

#### RESUMPTION OF SESSION

At 3:58 p.m., the session was resumed.

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

Senator Sotto. Mr. President, may we ask that the principal sponsor of the measure, Sen. Ramon B. Magsaysay Jr., be recognized. For the interpellation, the Minority Leader, Sen. Teofisto T. Guingona Jr. be likewise recognized.

The President. Sen. Ramon B. Magsaysay Jr., the principal sponsor, is recognized; and the Minority Leader, Sen. Teofisto T. Guingona Jr. is likewise recognized.

Senator Guingona. Thank you, Mr. President. Will the distinguished sponsor kindly yield for some questions?

Senator Magsaysay. Willingly, Mr. President.

Senator Guingona. The bill under consideration is environment-friendly, is it not?

Senator Magsaysay. That is correct, Mr. President.

Senator Guingona. And it is good for the consumers.

Senator Magsaysay. It is good for the consumers; it is good for the environment; and it is good for the coconut farmers.

Senator Guingona. And it is consistent with the mandate of the Constitution.

Senator Magsaysay. That is correct, Mr. President.

**Senator Guingona.** It seeks to prohibit hard surfactants because this is considered harmful, it is least biodegradable and it adds to the pollution. Is that correct?

**Senator Magsaysay.** That is correct, Mr. President. The hard surfactant or hard alkyl benzene sulfonate (HAB) is hardly biodegradable.

**Senator Guingona.** Is that a fact that has been technically established?

**Senator Magsaysay.** Yes, Mr. President. This has been time and again established that not even 2 percent will be absorbed and be degraded in a certain period of time. We have some statistics here wherein it compares the biodegradability of the surfactants. The hard surfactant ultimately is only 10 percent biodegradable, while the coconut-based soft surfactant is 100 percent biodegradable and the soft AB surfactant is 98 percent biodegradable. So we are doing this exercise to completely ban the hard surfactant or hard HAB.

**Senator Guingona.** And this proposal has been on the table for the past three years, has it not?

**Senator Magsaysay.** That is correct, Mr. President.

**Senator Guingona.** And the producers who, I understand, also attended the distinguished gentleman's hearing are also aware of this fact.

**Senator Magsaysay.** Aware of being always filed for the last three years.

**Senator Guingona.** Yes, Mr. President.

**Senator Magsaysay.** Yes, there have been public hearings during this period.

**Senator Guingona.** And those affected interested parties are all aware that this proposal has been on the table for the past three years and therefore, they are prepared to do away with this hard surfactant as proposed in the measure and those concerned are prepared to take the necessary alternatives in case it is enacted into law as proposed by the author.

**Senator Magsaysay.** The public hearings that have been conducted have been very thorough and broad-based. The leaders like Procter and Gamble, Unilever and the other processors—Colgate Palmolive, Peerless and ACS Manufacturing—have all been called, listened to and they are prepared to accept the implementation of the banning of hard surfactant.

In fact, last year they have already started using the soft

surfactant, the more biodegradable chemical without waiting for the measure to be passed into law. They have taken the initiative because they know that they have the responsibility to protect our environment and at the same time to give a bigger market to our coco chemicals based on the coconut sector to be the basic raw material for soap-making or for detergent processing.

**Senator Guingona.** If that were so, the benefits to be derived from the enactment of banning hard surfactants is already established and accepted and it is already known to the producers.

As I understand it, there is already a House version that has been approved.

**Senator Magsaysay.** Yes, Mr. President. The House version has been approved, and among the provision is that upon the passage of the law, the banning is immediate. The committee version that has been signed by the committee members is to allow a one-year grace period before the implementation is completely undertaken. This is a compromise particularly for ChemPhil, the sole processor of hard surfactants, which is owned by Mr. Garcia's family.

**Senator Guingona.** But as the distinguished sponsor has admitted, the producers already knew of the intended banning three years ago and they must have already prepared for alternative courses of actions. And if we weigh this against the benefits that would be derived from its immediate banning, then to follow the logical premises to its conclusion, perhaps the distinguished sponsor will agree to deleting this proposal provided however, that the prohibition shall take effect after 12 months from the approval of this Act.

If we remove this, we will be coinciding it with the measure in the House. The Bicameral Conference may not need to take place anymore. There will be faster implementation, enactment and the bad effects, as admitted by the distinguished sponsor, would be avoided as soon as possible. That is the logical conclusion, and I ask the distinguished sponsor that we remove this provision.

**Senator Magsaysay.** The proposal of the distinguished gentleman from Cagayan de Oro is very laudable. But I would like to point out, Mr. President, that the technical working group was pushing for two years. But the committee deemed it fit to make it one year to give the particular company or companies, which has over 200 employees, the time element to convert to processing soft surfactants.

We felt that despite the fact that this bill has been on top of the table for the past two or three years, that they would have

already taken the initiative to convert to processing soft surfactants. They must not have been aware that the will of the Philippine government is to really ban the nonbiodegradable part, the hard surfactants to improve our environment. The committee felt that one year is good enough grace period for the minority producers that supply about five percent of the total market.

**Senator Guingona.** The company owner is also a friend of this representation. I am sure he is also a reasonable man who can make the necessary adjustments for the greater good since he has been aware of this problem for the past three years.

I am told by Sen. Serge Osmeña that it is even eight years. Be that as it may, at least, for three years, this has been on the table. May the distinguished sponsor please take a second look into this and consider the benefits? Since the premises have been admitted, let us push it to its logical conclusion.

Thank you, Mr. President, and I thank the distinguished sponsor.

**Senator Magsaysay.** With pleasure, Mr. President.

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

**Senator Sotto.** Mr. President, Senator Enrile has reserved the right to continue with his interpellation on this bill.

#### SUSPENSION OF CONSIDERATION OF S. NO. 1168

Mr. President, I move that we suspend consideration of Senate Bill No. 1168.

**The President.** Is there any objection? *[Silence]* There being none, consideration of Senate Bill No. 1168 is hereby suspended.

#### BILL ON SECOND READING S. No. 1595—Integrated Solid Waste Management Act of 1999 (Continuation)

**Senator Sotto.** Mr. President, I move that we resume consideration of Senate Bill No. 1595 as reported out under Committee Report No. 52.

**The President.** Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1595 is now in order.

**Senator Sotto.** Mr. President, the parliamentary status is that we are in the period of individual amendments.

May we ask that the principal sponsor, Sen. Loren Legarda-Leviste be recognized. For the individual amendments, I ask that Sen. Miriam Defensor Santiago be likewise recognized.

**The President.** Sen. Loren Legarda-Leviste, the principal sponsor, is recognized. To propose her individual amendments, Sen. Miriam Defensor Santiago is likewise recognized.

**Senator Defensor Santiago.** Thank you.

Mr. President, I move to amend our pending bill in the matter that I shall indicate, proceeding sequentially by page and line number. Please allow me to begin with page 5.

#### DEFENSOR SANTIAGO AMENDMENTS

On page 5, line 4, after the definition of the term "Solid Waste," the proposed amendment seeks to add the following terms:

U. SOLID WASTE MANAGEMENT -- SHALL REFER TO THE SYSTEMATIC ADMINISTRATION OF ACTIVITIES WHICH PROVIDE FOR THE COLLECTION, SOURCE SEPARATION, STORAGE, TRANSPORTATION, TRANSFER, PROCESSING, TREATMENT, AND DISPOSAL OF SOLID WASTE.

Parenthetically, this amendment is sourced from the US Solid Waste Disposal Act.

After this paragraph that shall begin with capital letter "U," the proposed amendment seeks to add a paragraph beginning with capital letter "V".

V. SOLID WASTE MANAGEMENT FACILITY -- SHALL REFER TO ANY RESOURCE RECOVERY SYSTEM OR COMPONENT THEREOF; ANY SYSTEM, PROGRAM, OR FACILITY FOR RESOURCE CONSERVATION; ANY FACILITY FOR THE COLLECTION, SOURCE SEPARATION, STORAGE, TRANSPORTATION, TRANSFER, PROCESSING, TREATMENT, OR DISPOSAL OF SOLID WASTE.

In other words, this amendment seeks to add the definition of the terms: First, Solid Waste Management; and second, Solid Waste Management Facility. Both definitions which are sought to be added to our pending bill are sourced from the US Solid Waste Disposal Act.

May I please know what the reaction of the distinguished sponsor is?

**Senator Legarda-Leviste.** The amendment is accepted, Mr. President.

What we need is for the government to impose stiffer penalties to erring establishments. That way the government would not only save money but would also raise money in the form of fines imposed on offenders.

So, for these reasons, I appeal to the distinguished sponsor to reduce the appropriated amount from P40 million to P20 million, unless there are answers to the points that I have raised.

**Senator Legarda-Leviste.** We understand the scarcity of government resources. We therefore accept the amendment of the lady senator.

**Senator Defensor Santiago.** Thank you. That is all with this bill, Mr. President.

**Senator Legarda-Leviste.** We would like to thank the distinguished lady senator for the enlightened contribution.

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

#### SUSPENSION OF CONSIDERATION OF S. NO. 1595

**Senator Sotto.** Mr. President, I move that we suspend consideration of Senate Bill No. 1595.

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

#### SUSPENSION OF SESSION

**Senator Sotto.** Mr. President, I move that we suspend the session for one minute.

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

*It was 4:31 p.m.*

#### RESUMPTION OF SESSION

*At 4:32 p.m., the session was resumed.*

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

#### BILL ON SECOND READING

##### S. No. 1168—Prohibiting the Use of Hard Surfactants (Continuation)

**Senator Sotto.** Mr. President, I move that we resume consideration of Senate Bill No. 1168 as reported out under Committee Report No. 188.

**The President.** Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1168 is now in order.

**Senator Sotto.** May I ask that the principal sponsor, Sen. Ramon B. Magsaysay Jr., be recognized. Likewise, I ask that Sen. Miriam Defensor Santiago be recognized for the interpellation.

**The President.** Sen. Ramon B. Magsaysay Jr., the principal sponsor, is recognized for the period of interpellations. And to avail herself of the period of interpellations, Senator Miriam Defensor Santiago is likewise recognized.

**Senator Defensor Santiago.** Mr. President, would the distinguished sponsor graciously yield the floor to me so that I can interpellate on certain points that I feel are necessary to bring up at session.

**Senator Magsaysay.** Willingly, Mr. President. The lady senator from Iloilo has been very resourceful and cooperative in other measures like E-Commerce. I am sure that she will put in a better bill which will be enacted into a law.

**Senator Defensor Santiago.** Thank you. I shall proceed sequentially by page and section number. I would like to begin on page 2 of the bill. This refers to Section 5, lines 23 to 27.

Section 5 provides: "In addition to the administrative sanctions imposable under Executive Order No. 913, as amended, the Bureau of Product Standards is hereby authorized to recommend the imposition of the fines as set forth in the following schedule:"

My question is: This provision does not indicate the circumstances under which it should be implemented. In other words, my concern is that it may not provide the proper standards that would ensure that the implementing agency will be carrying out the intent of the Legislature. We recall that Congress alone has sole power of legislation. As an exception, our legal system allows Congress to delegate its legislative power on two conditions. First, that the standard must be sufficient when imposed by law passed by Congress; and second, that the law must be complete when it leaves the Legislature.

I raise this question with respect to Section 5, since apparently no standards are being established in Section 5. I am afraid, therefore, that if we were brought to Court, or if the governmental agency implementing this bill was brought to court, it might not be upheld by the Supreme Court since it might constitute invalid delegation of legislative power.

In other words, would it not be preferable to include standards in Section 5 that would guide the Bureau of Product Standards in the imposition of additional fines?

**Senator Magsaysay.** Mr. President, the lady senator is talking about standards. I feel that the standards that are imbedded in the definition of the hard surfactants that will be banned for use in our country would be sufficient enough to guide the Bureau of Product Standards under the DTI to do a good deed in implementing the laws.

**Senator Defensor Santiago.** I am sorry, Mr. President. I was not referring at all to the standards of the product or of surfactants. I was using the term "standards" as a technical term of art. That is to say, when the Bureau of Product Standards recommends the imposition of fines, what are the standards for the imposition of the fines?

In other words, what would be the basis for the imposition of the fines? That is a legal requirement that we must comply with.

The present section simply says: the Bureau of Product Standards is hereby authorized to recommend the imposition of the fines. But what would be the basis for the recommendation for these fines? That is what I am asking.

**Senator Magsaysay.** We have the executive order which right now guides this particular issue. But over and above that, Mr. President, we would like to assure the lady senator from Iloilo that we are willing to accept the standards that she feels have to be included in this provision, and we welcome any amendments.

**Senator Defensor Santiago.** That request is well-taken and I shall stand up during the period of amendments to comply with the request.

I will proceed to page 3, Section 5, lines 4 to 6. These lines read: "The imposition of the foregoing administrative sanctions shall be without prejudice to the cancellation of the Product Standards Quality Mark pursuant to Republic Act No. 4109, as amended."

My question is: How important is the mark to the manufacturer?

What I am trying to get at is this: Is it sufficient deterrence to misbehavior if we cancel the mark of the manufacturer, or would it be a better and more effective deterrent if the manufacturer faces losing its license if it does not comply with the provisions of this bill?

In other words, instead of simply canceling the mark, should we not threaten the manufacturer, when he exhibits bad behavior, with loss of license if our purpose is deterrence?

May I please return to the basic question since I am not familiar with the professional environment.

How important is a mark to the manufacturer? What are the advantages that accrue to a mark that would make it an effective deterrent if a manufacturer was threatened with cancellation of his mark?

**Senator Magsaysay.** The lady senator has a good point here. I believe that losing one's license to manufacture is a much heavier penalty than just losing a product's standard quality mark.

So, if the lady senator from Iloilo would like to improve the sanctions as much as lose the license to manufacture, we will be open to her amendments.

**Senator Defensor Santiago.** Yes, please. I would like to do so and I shall introduce it at the proper time. In the meantime, I am still on page 3. I am going down to Section 7, lines 28 to 32. These lines provide: "The rules and regulations shall include the authority to conduct a product check and inspection of establishments involved in the manufacture, importation, distribution and sale of laundry detergents containing hard surfactants."

My question is: This provision awards the authority to conduct inspection. When can this inspection be exercised? In other words, is this completely open-ended? May a product check and inspection be conducted at any time, under all circumstances? If not, what are the guidelines or the limitations or restrictions on this power?

**Senator Magsaysay.** I would think, Mr. President, that the inspection can start as early as when the entity will import the raw materials, or also during the working process along the way of processing the final goods or good, or even when it is going to the market there can be spot inspections. In fact, this measure provides that the product, the detergent or soap, will be labeled as such—that it contains all the ingredients—to show that hard surfactants are not being used in this particular product line.

**Senator Defensor Santiago.** As a member of the legal profession, I recall to mind the vast jurisprudence by the judicial branch of government on when searches can be considered appropriate for these cannot be conducted at any time even by properly authorized law enforcement agencies.

Therefore, may I please humbly recommend a restyling of this section so as to indicate when this power to inspect may be conducted, and under what circumstances.

**Senator Magsaysay.** We welcome this, Mr. President.

**Senator Defensor Santiago.** Thank you, Mr. President.

My last question is: In general—it does not refer to any specific provision—what replacements for hard surfactants or what alternatives to hard surfactants are available to our Philippine manufacturers? That is the first question, and the second is: Is the State or the government providing any incentive to manufacturers that make use of biodegradable substances? The first question is: What are the alternatives?

**Senator Magsaysay.** The alternatives are quite plentiful in our country because the first alternative is the CAS or the coco-fatty-alcohol sulfate, the raw material is our own native coconuts. So this is very biodegradable up to a hundred percent.

**Senator Defensor Santiago.** And is it widely available in our country?

**Senator Magsaysay.** Yes, it is widely available.

**Senator Defensor Santiago.** Then I am satisfied. The second question is: Does our government at present provide any incentives to induce manufacturers to use biodegradable substances because if not, then conceivably, this bill might be improved by adding such an incentive provision.

**Senator Magsaysay.** Mr. President, at present, the government—I am speaking in general terms—our government and our Board of Investments will give incentives necessarily for our local manufacturers and processors to develop and modernize their processing plants to produce coconut-based biodegradable surfactants. In fact, these are also exported. It is also an export product. As a matter of fact, our large neighbor Indonesia, has a big export of coconut-based soft surfactants and is earning a lot of foreign exchange.

So if the lady senator would further strengthen the situation by putting incentives, we will, of course, welcome her initiative.

**Senator Defensor Santiago.** Yes, I desire to pursue this line of legislation and shall do so at the appropriate time.

I would like to thank the distinguished sponsor for his

graciousness in yielding the floor to me and I return it to him forthwith. Thank you, Mr. President.

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

**Senator Sotto.** Mr. President.

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

**Senator Sotto.** Thank you. Mr. President, originally Sen. Juan Ponce Enrile expressed his intention and desire to interpellate on this bill but we were given word by his chief of staff and his office that he will no longer interpellate on Senate Bill No. 1168. Therefore, if there is no other member of the Senate who wishes to interpellate on this bill, we would like to move to close the period of interpellations.

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

#### SUSPENSION OF CONSIDERATION OF S. NO. 1168

**Senator Sotto.** Mr. President, I move that we suspend consideration of Senate Bill No. 1168.

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

#### 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. 227, entitled

#### INQUIRY IN AID OF LEGISLATION, INTO THE ALLEGED "CAVITE LAND SCAM."

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

#### ADJOURNMENT OF THE SESSION

**Senator Sotto.** Mr. President, I move that we adjourn the session until three o'clock Monday afternoon, July 31, 2000.

**The President.** Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock Monday afternoon, July 31, 2000.

*It was 4:46 p.m.*