## TUESDAY, MARCH 21, 2000

### OPENING OF THE SESSION

*At 3:20 p.m., the Senate President, Hon. Blas F. Ople, called the session to order.*

The President. The 75th 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. Loren Legarda-Leviste.

*Everybody rose for the prayer.*

### PRAYER

**Senator Legarda-Leviste.**

### COME, HOLY SPIRIT
*(Msgr. John J. Dougherty)*

Replace the tension within us with a holy relaxation.

Replace the turbulence within us with a sacred calm.

Replace the anxiety within us with quiet confidence.

Replace the fear within us with a strong faith.

Replace the bitterness within us with the sweetness of grace.

Replace the darkness within us with a gentle light.

Replace the coldness within us with a loving warmth.

Replace the night within us with Your day.

Replace the winter within us with Your spring.

Straighten our crookedness, fill our emptiness.

Dull the edge of our pride, sharpen the edge of our humility.

Light the fires of our love, quench the flames of our lust.

Let us see ourselves as You see us,

That we may see You as You have promised.

And be fortunate according to Your word;

Blessed are the pure of heart, for they shall see God.

Amen.

### ROLL CALL

The President. The Secretary will please call the roll.

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 ............................ Present
Senator Raul S. Roco .................................. Present
Senator Miriam Defensor Santiago .............. Present
Senator Vicente C. Sotto III ........................ Present
Senator Francisco S. Tatad .......................... Present
The President ............................................. Present

The President. With 18 senators present, there is a quorum.

The Majority Leader is recognized.

### ACKNOWLEDGMENT OF THE OFFICIAL VISIT OF CITY COUNCILOR RANDY REID AND HIS WIFE OF KINGSTON, ONTARIO, CANADA

Senator Drilon. Mr. President, before we proceed with the business for the day, may we first recognize the presence of Kingston City Councilor Randy Reid and his wife. They are from Ontario, Canada. They are in the audience and they are accompanied by the Minority Leader of the Cagayan de Oro City Council, Benjo Beraldo. *[Applause]*

* Arrived after the roll call

PUBLIC ENTERPRISES TO URGENTLY CONDUCT AN IMMEDIATE INQUIRY, IN AID OF LEGISLATION, IN ORDER TO RE-EXAMINE AND REVIEW ALL POWER SUPPLY CONTRACTS CONCLUDED BY THE NATIONAL POWER CORPORATION (NAPOCOR) WITH PRIVATE INDEPENDENT POWER PRODUCERS, SO AS TO DETERMINE THE WISDOM AND ADVISABILITY OF FORESTALLING ANY ACTION OR PLAN OF THE GOVERNMENT TO SHIFT TO POWER CONSUMERS OF THE COUNTRY THE BURDEN OF PAYING AND DISCHARGING THE FINANCIAL OBLIGATIONS OF NAPOCOR UNDER SUCH CONTRACTS IN ORDER TO SPARE THE POWER CONSUMERS OF THE COUNTRY FROM UNWARRANTED, ONEROUS, UNJUST, UNREASONABLE, AND UNNECESSARY CHARGES AND FOREIGN OBLIGATIONS, WHICH WERE NOT OF THEIR OWN DOING

Introduced by Senators Enrile, Flavier and Honasan

**The President.** Referred to the Committees on Energy; and Government Corporations and Public Enterprises

**The Acting Secretary** [Mr. Pineda]. Proposed Senate Resolution No. 721, entitled

RESOLUTION DIRECTING THE COMMITTEE ON HEALTH AND DEMOGRAPHY TO INQUIRE, IN AID OF LEGISLATION, INTO THE IMPLEMENTATION OF REPUBLIC ACT NO. 7875, OTHERWISE KNOWN AS THE NATIONAL HEALTH INSURANCE ACT OF 1995; THE PERFORMANCE OF THE PHILIPPINE HEALTH INSURANCE CORPORATION; AND THE REPORTED DELAY IN THE PROCESSING OF CLAIMS OF BENEFICIARIES AND SERVICE PROVIDERS, WITH THE END IN VIEW OF ENACTING LEGISLATION TO ADDRESS THE SAME

Introduced by Senators Flavier, Enrile and Honasan

**The President.** Referred to the Committees on Health and Demography; and Accountability of Public Officers and Investigations

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. This is the proposed Electronic Commerce Law.

**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 now in the period of individual amendments. May I ask the Chair to recognize the principal sponsor, Sen. Ramon B. Magsaysay Jr.

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

**Senator Magsaysay.** Thank you, Mr. President. We are now ready to receive the individual amendments of our colleagues.

**Senator Drilon.** For the record, Mr. President, may I suggest that we use as our basis the version dated March 7, 2000—with asterisk after the year 2000—and that we go page by page as we usually do during the period of individual amendments.

### SUSPENSION OF SESSION

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

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

*It was 3:35 p.m.*

### RESUMPTION OF SESSION

*At 3:36 p.m., the session was resumed.*

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

**Senator Drilon.** Mr. President, may I amend my previous manifestation. The version appearing in our blue folders would be the version as of March 15, 2000. It is appearing under tab K of our blue books. So may I suggest to our colleagues to refer to tab K of our blue book.

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

**Senator Drilon.** We now can go page by page, Mr. President, with the permission of the sponsor.

We go to page 1. This consists of the *Title* and the *Declaration of Policy*

Senator Pimentel has an amendment. May I ask that he be recognized, Mr. President?

**The President.** Sen. Aquilino Pimentel Jr. is recognized.

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

I have an amendment in Section 5, the Definition of Terms...

**Senator Drilon.** Mr. President, that is on page 2. With the permission of Senator Pimentel, we can just go through pages 1 and 1A first. If there are no amendments...

**Senator Roco.** Mr. President, antecedent amendment.

**The President.** Senator Roco is recognized.

### ROCO AMENDMENTS

**Senator Roco.** In Section 2, Mr. President. Basically, this is an effort of styling and shortening the *Declaration of Policy*. We have no quarrel with the text or the meaning. But would the distinguished sponsor accept an amendment, subject to style, which makes the *Declaration of Policy* just a categorical statement, so that it will read something like this:

THE STATE SHALL—instead of "RECOGNIZES THE NEED TO," which is passive—BROADEN THE DOMESTIC AND FOREIGN MARKETS FOR PHILIPPINE PRODUCTS THROUGH ELECTRONIC COMMERCE AS A SUPPLEMENT TO TRADITIONAL MEANS OF TRADE. FOR THAT PURPOSE, THE STATE SHALL ADOPT THE NECESSARY AND APPROPRIATE LEGAL, FINANCIAL, DIPLOMATIC AND TECHNICAL FRAMEWORK, SYSTEM AND FACILITIES...

**Senator Magsaysay.** The amendment is accepted, Mr. President, subject to style.

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

**Senator Roco.** On page 2, Mr. President,...

**Senator Drilon.** With the indulgence of Senator Roco. Is there no more amendment on page 1A from any...?

**Senator Roco.** No, more. Not from me, Mr. President.

**Senator Drilon.** All right.

**Senator Roco.** On page 2. It might be in the same section as Senator Pimentel's amendment. So, I am in Section 5 (b)...

Mr. President, again, this is an effort of shortening the definition of "Computer." Because it is really complex and I am still working on the styling. Would the sponsor care to consider a definition which shall therefore read something to this effect?

"Computer" REFERS TO ANY DEVICE OR APPARATUS, SINGLY OR INTERCONNECTED, WHICH BY ELECTRONIC, ELECTRO-MECHANICAL, OPTICAL AND/OR MAGNETIC IMPULSE, OR OTHER MEANS, CAN—and then we make it all active, not "IS CAPABLE"—RECEIVE, RECORD, TRANSMIT, STORE, PROCESS, CORRELATE, ANALYZE, PROJECT, RETRIEVE AND/OR PRODUCE INFORMATION, DATA, TEXT, GRAPHICS, FIGURES, VOICE, VIDEOS, SYMBOLS OR OTHER MODES OF EXPRESSION OR PERFORM ANY ONE OR MORE OF THESE FUNCTIONS. So that we cover it conjointly with the modification singly or interconnected words, and then we make it all active. Instead of "processing", we make it "PROCESS, RECEIVE". Will that be acceptable?

**Senator Magsaysay.** Coming from one of the main coauthors, Mr. President, it is accepted, subject to style.

**Senator Roco.** Thank you, Mr. President. I have nothing else at the moment.

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

**Senator Drilon.** May I ask the Chair to recognize Senator Pimentel.

**The President.** Senator Pimentel is recognized.

**Senator Pimentel.** My amendment, Mr. President, refers to paragraph C on page 2A, if that is all right.

**Senator Magsaysay.** Yes, Mr. President.

**Senator Pimentel.** Unless Senator Guingona has...

**Senator Drilon.** I think Senator Guingona has a prior amendment.

**Senator Pimentel.** Age first.

**The President.** Senator Guingona is recognized for an anterior amendment.

**Senator Guingona.** Age or beauty? Mr. President, on page 2, line 21b, after the words "OR BY OTHER MEANS," add the phrase APPROVED BY THE SUPREME COURT. Because the phrase "BY OTHER MEANS" is too broad we do not know what.

### SUSPENSION OF SESSION

**Senator Drilon.** 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 3:42 p.m.*

### RESUMPTION OF SESSION

*At 3:43 p.m., the session was resumed.*

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

**Senator Guingona.** Mr. President, I withdraw the original proposal and instead introduce the proposal to delete the phrase "OR BY OTHER MEANS" on line 21b.

**Senator Drilon.** Including the comma (,)?

**Senator Guingona.** Including the comma (,).

**The President.** What does the sponsor say?

**Senator Magsaysay.** Mr. President, may I propose to our colleague that instead of deleting the phrase "OR BY OTHER MEANS," we put the phrase OR BY SIMILAR MEANS.

**Senator Guingona.** That is the problem, Mr. President. It is too broad, we do not know what is similar. This is a new science. This is a definition so it has to be...

**Senator Magsaysay.** "OR BY SIMILAR MEANS".

**Senator Pimentel.** Mr. President, may I have an input here.

**Senator Magsaysay.** Yes, Mr. President.

**Senator Pimentel.** With the permission of the two gentlemen on the floor. If we are going to delete the phrase "OR

BY OTHER MEANS", what if a new device would be invented or a new way of doing computers would arise sometime in the future? That is probably why the phrase "OR BY OTHER MEANS" should stay. In any event, this is only a definition of what we mean by a "computer" here.

**Senator Guingona.** Yes, Mr. President. The only problem I have is that it seems too broad.

### SUSPENSION OF SESSION

**Senator Drilon.** Mr. President, I move that we suspend the session to settle the deadlock.

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

*It was 3:45 p.m.*

### RESUMPTION OF SESSION

*At 3:47 p.m., the session was resumed.*

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

The Majority Leader is recognized.

**Senator Drilon.** Mr. President, Senator Guingona had the floor earlier.

**The President.** Senator Guingona is recognized.

### GUINGONA AMENDMENT

**Senator Guingona.** Mr. President, considering the fast-paced developments of computers, instead of "OTHER MEANS", we insert ANY DEVICE THAT WOULD DISCHARGE THE FUNCTIONS as defined here, subject to style.

**The President.** What does the sponsor say?

**Senator Magsaysay.** Does the gentleman want to remove the phrase "BY OTHER MEANS"?

**Senator Guingona.** Yes, Mr. President, because it is too broad, but at the same time we would like to give allowance to the fast-paced developments of computers.

**Senator Tatad.** Mr. President.

**The President.** Senator Tatad is recognized.

**Senator Tatad.** Before we act on the amendment, since this is a very difficult bill, I would propose that amendments to be proposed should be precise in language. When we say "subject to style," we leave it to whom?

When we approve the amendment, according to the *Rules*, the language should be precise, especially when we are talking of a very technical bill.

That is all, Mr. President. Thank you.

**Senator Guingona.** "OR OTHER MEANS" WITH THE SAME FUNCTIONS, Mr. President.

**Senator Magsaysay.** It is accepted, Mr. President—OR OTHER MEANS WITH THE SAME FUNCTIONS.

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

**Senator Drilon.** If there are no other amendments on page 2, may we proceed to page 2A, Mr. President. This is the proposed definition of "HACKING" or "CRACKING".

**Senator Pimentel.** Mr. President, may I have the chance to propose my amendment.

**The President.** Senator Pimentel is recognized.

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

This is the proposal, Mr. President, for the consideration of the gentleman.

### PIMENTEL AMENDMENT

"HACKING" OR "CRACKING" REFERS TO UN-AUTHORIZED ACCESS INTO OR INTERFERENCE IN A COMPUTER SYSTEM/SERVER BY OR THROUGH THE USE OF A COMPUTER OR A COMPUTER SYSTEM OR OTHER MEANS IN THE COMPUTER OR IN ANOTHER COMPUTER WITHOUT THE KNOWLEDGE OR CONSENT OF THE OWNER OF THE COMPUTER OR SYSTEM, INCLUDING THE INTRODUCTION OF COMPUTER VIRUSES AND THE LIKE, RESULTING IN THE CORRUPTION, DESTRUCTION, ALTERATION, THEFT OR LOSS OF DATA MESSAGES.

**Senator Magsaysay.** It is accepted, Mr. President.

**The President.** Two hands are being raised, Senator Guingona and Senator Roco.

**Senator Guingona.** We would just like to ask the distinguished sponsor of the amendment. If we remove the phrase "KNOWLEDGE AND CONSENT OF"—because he has proposed to change it with the word AND. I thought that this one goes together because the word "cracking" is a very dangerous computer crime. If it is done with the knowledge but not with the consent of the owner of the computer, that is still cracking and vice versa. "Consent" would connote knowledge but not the vice versa.

**Senator Pimentel.** So the gentleman's proposal is to use the word AND instead of the word "OR"? I have no problem with that, Mr. President.

**Senator Tatad.** Mr. President.

**The President.** Senator Tatad is recognized.

**Senator Tatad.** Before we act on the motion, "hacking" and "cracking" are not identical. "Hacking" is not an offense in international usage. "Cracking" is the offense. Similarly, "phreaking" is an offense.

I see, Mr. President, that in the bill, there is no extensive use of these words "hacking" or "cracking." Hacking appears only once in the "penalties." So I wonder if the distinguished proponent of the amendment would consent to simply deleting this word from the definitions and defining it instead simply in the "Offenses" appearing on page 14.

**Senator Pimentel.** We will have no problem with transferring, in other words, this definition to a later portion.

**Senator Tatad.** Yes. Instead of defining it, we simply define the offense to read possibly as follows: ANY UNAUTHO-RIZED ACCESS INTO A COMPUTER SYSTEM WITHOUT THE KNOWLEDGE AND CONSENT OF THE OWNER OF THE SYSTEM RESULTING IN ACCESS TO, DAMAGE, INCLUDING THE INTRODUCTION OF COMPUTER VIRUSES, DESTRUCTION, ALTERATION, LOSS OR THEFT OF DATA SHALL BE PUNISHED BY... et cetera.

I think that may be a better approach, Mr. President.

**Senator Roco.** Mr. President, again, we have no problems with the recommendation of Senator Tatad, except in terms of the amendment, because this will now be a definition of a crime, a statutory crime. May we suggest that it be very clear, otherwise, nobody will get convicted.

**Senator Tatad.** Mr. President, my proposal, in fact, is to delete the "Definition" and simply define the offense as clearly as possible.

**Senator Roco.** Yes, Mr. President. That is why, whether we put it here in the definition or in the penalty provisions—because normally that should be contained somewhere in the body—it should be defined very well so that if we were to define "hacking" as unauthorized access or interference in a computer system without the consent of the owner or the computer server, then that is "hacking." So we can get a conviction because it is simply defined. We cannot have a crime which says, "including introduction of viruses." We must say now that the introduction of computer viruses is also punishable or the introduction of computer viruses which results in the corruption, destruction, alteration, theft or loss of data messages shall also be punishable.

All I am saying, Mr. President, is, whether we put it here or in the last part as a definition of an offense, we must clearly isolate each one so that in the prosecution the fiscal knows what to prove. That is all I am saying.

**Senator Tatad.** Mr. President, I believe that is a very good point. But for the moment, I believe we can act on the proposed amendment to delete "hacking" from the definitions and simply supply a sufficient and clear definition of the crime in the list of offenses.

**Senator Roco.** Again, we are not disagreeing, Mr. President. But if my good friend from Catanduanes would just say, "to transfer" instead of "to delete"—

**Senator Pimentel.** Transfer.

**Senator Roco.** —and the proponent of the amendment can accept, and if this is also accepted by the main sponsor, then when we act on the motion, we then transfer already, subject to clearer definitions when we get to it.

**Senator Tatad.** Mr. President, I have no difficulty understanding the statement. But what I am saying is, there is no need for the word "hacking" to appear in the law because as I was pointing out, in international usage, "hacking" is not a crime. But here, if we are going to make it a crime, all we need to do is define the act that will constitute a crime clearly, sufficiently so that there is no misunderstanding.

**The President.** Senator Pimentel is the proponent of the amendment. What does he say?

**Senator Pimentel.** Yes, Mr. President. I am not too sure that "hacking" is not a crime.

**Senator Roco.** Yes.

**Senator Pimentel.** As a matter of fact, I was just reading in the Internet last night that somebody was being prosecuted for "hacking" in the United States.

So, unless we are convinced by evidence that that is incontrovertible, I am hard put to accept the premise that "hacking" is not a crime, Mr. President.

**Senator Tatad.** Mr. President, if it will help, I am using here just a small dictionary on Information Technology put out by the economist books. This is authored by June Browning. It defines "hacker." Strictly, a "hacker" is a skilled and dedicated programmer who, in the words of the new hacker's dictionary, enjoys exploring the details of programmable systems on how to stretch his capabilities as opposed to most users who prefer to learn only the minimum necessary. But the word has also recently come to connote a benign kind of computer prankster dedicated to achieving unauthorized entry into, say, NASA's mission control computers just to say he was there. This is to be contrasted with "cracker" and "phreaker." Phreaker is spelled P-H-R-E-A-K-E-R.

Now we shall look at the definition of "cracker" and "phreaker" to appreciate what this book is trying to tell us.

**Senator Roco.** What year is the edition, Mr. President?

**Senator Tatad.** The year? 1997.

**Senator Pimentel.** Mr. President, while the gentleman is looking into the other definitions—

**The President.** Yes, Senator Pimentel.

**Senator Pimentel.** —I would like to point out that the definition here does not end in just stating that there is interference or unauthorized access. It goes on to say "resulting in the corruption, destruction, alteration, theft or loss of data messages." That last part should make a lot of difference between innocent hacking or cracking or whatever the term would be, because what makes this a crime is not only the unauthorized access or interference but also the resultant destruction, alteration, theft or loss of the data messages.

### TATAD-PIMENTEL AMENDMENT

**Senator Tatad.** Mr. President, with that distinction being supplied, I will have no difficulty supporting the position of the original proponent.

So I would now amend the proposal by proposing that we transfer this definition from where it is to the section on penalties.

Thank you very much.

Senator Pimentel. I have no problem accepting the transfer of this definition to another section.

The President. What does the sponsor say?

Senator Magsaysay. I have no objection, Mr. President, to transfer the definition to page 14, defining the crime of hacking.

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

Senator Roco. Mr. President, can we now go to the substance of the definition, or shall we wait when we get there?

Senator Pimentel. When we get there.

Senator Roco. All right. So, we just approve to transfer. We have no agreement yet on the definition.

Thank you, Mr. President.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. May we go now to page 3, Mr. President.

Senator Tatad. Mr. President.

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

### TATAD AMENDMENTS

Senator Tatad. With the indulgence of the distinguished Majority Leader, may we return to page 2. My papers were not yet with me when we started the deliberations. With the consent of the Chamber, I would like to revisit page 2, line 6, Section 3. I would propose that we delete the word "simplify" and in lieu thereof, insert the word ENCOURAGE. I do not believe that this bill can "simplify" a not so simple process, but it should "encourage" us to use e-commerce.

The President. What does the sponsor say?

Senator Magsaysay. It is accepted, Mr. President.

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

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

With the consent again of the Chamber, I would like to revisit

page 1, as originally amended by Senator Roco. I hope he would look at this proposal. In the Declaration of Policy, I think the proposal of our good friend from Naga is for us to really simplify and shorten it as much as possible. In light of that, I would like to propose that what has been previously amended be modified to read as follows:

*Declaration of Policy. -*

THE STATE RECOGNIZES THE NEED TO PROMOTE ELECTRONIC COMMERCE AS A MEANS OF ENSURING EFFICIENT TRADE WITHIN AND ACROSS NATIONAL BOUNDARIES.

It is as simple as that. I think that covers a lot more ground. There is no possibility of being misled by it.

Senator Drilon. Mr. President, may we ask that Senator Roco be recognized as he has an amendment on line 6a which is now being amended.

The President. Sen. Raul S. Roco is recognized.

Senator Roco. Mr. President, I was trying to be as nice to the committee as possible by sticking to the thoughts of the committee. That is why I did not seek to replace it. May we suspend the session for one minute?

### SUSPENSION OF SESSION

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

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

*It was 4:03 p.m.*

### RESUMPTION OF SESSION

*At 4:12 p.m., the session was resumed.*

The President. The session is resumed.

Senator Magsaysay, the sponsor, still has the Floor.

### MAGSAYSAY-ROCO-TATAD AMENDMENT

Senator Magsaysay. Mr. President, as regards the amendment of Senator Roco, and the other proponent amending the amendment of Senator Roco, Senator Tatad and I have met and agreed on the issue of the *Declaration of Policy* by restating it as follows:

THE STATE SHALL PROMOTE PHILIPPINE PROD-
UCTS IN DOMESTIC AND FOREIGN MARKETS
THROUGH ELECTRONIC COMMERCE. FOR THAT PUR-
POSE, THE STATE SHALL SUPPLEMENT TRADITIONAL
MEANS OF TRADE AND ADOPT THE NECESSARY AND
APPROPRIATE LEGAL, FINANCIAL, DIPLOMATIC AND
TECHNICAL FRAMEWORK, SYSTEM AND FACILITIES.

**The President.** Is this amendment now acceptable to the
sponsor?

**Senator Magsaysay.** It is accepted, Mr. President.

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

**Senator Drilon.** We go again to page 2, Mr. President.
There are no other amendments...

**The President.** Senator Tatad is recognized.

### TATAD AMENDMENT

**Senator Tatad.** Mr. President, on page 2, line 9, between
the words "to" and "security", I propose to replace the word
"promote" with the word ENSURE.

**Senator Magsaysay.** It is accepted, Mr. President.

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

**Senator Drilon.** On page 2A, Mr. President, there was a
previous amendment accepting the transfer of the definition of
the term "HACKING OR "CRACKING" to a subsequent section
pertaining to penalties. And a reservation, of course, is that it could
still be subject to individual amendments later on when we get to
that appropriate section.

**The President.** Yes.

**Senator Drilon.** Page 3, Mr. President.

**Senator Santiago.** Mr. President, page 3, please.

**The President.** Sen. Miriam Defensor Santiago is
recognized.

### SANTIAGO AMENDMENT

**Senator Santiago.** I am referring to page 3. I would like
to propose an amendment by insertion after line 2. I would like
to propose a paragraph (E) which will provide a definition of
"ELECTRONIC CONTRACT".

The explanation for this proposal is that the bill at present
does not contain a definition of an "ELECTRONIC CONTRACT",
and yet on page 6 of our bill, referring to Chapter III, Section 15,
the bill provides for the Formation and Validity of Contracts.
Therefore, in this section on Definition of Terms, I would like to
propose the following paragraphs. These will be inserted under
Section 5 after letter (D), "Data Message."

We would have another letter of the alphabet to denominate
the paragraph which will read:

(E) "ELECTRONIC CONTRACT" REFERS TO ALL
RECORDS GENERALLY PROCESSED, COMMUNICATED
OR USED FOR ANY PURPOSE IN ANY COMMERCIAL OR
GOVERNMENTAL TRANSACTION.

THE TERM "COMMERCIAL" SHOULD BE GIVEN A
WIDE INTERPRETATION SO AS TO COVER MATTERS
ARISING FROM ALL RELATIONSHIPS OF A
COMMERCIAL NATURE, WHETHER CONTRACTUAL
OR NOT. RELATIONSHIPS OF A COMMERCIAL
NATURE INCLUDE, BUT ARE NOT LIMITED TO,
THE FOLLOWING TRANSACTIONS: ANY TRADE
TRANSACTION FOR THE SUPPLY OR EXCHANGE OF
GOODS OR SERVICES; DISTRIBUTION AGREEMENT;
COMMERCIAL REPRESENTATION OR AGENCY;
LEASING; CONSTRUCTION OF WORKS; CONSULTING;
ENGINEERING; LICENSING; INVESTMENT; FINANCING;
BANKING; INSURANCE; EXPLOITATION AGREE-
MENT OR CONCESSION; JOINT VENTURE AND OTHER
FORMS OF INDUSTRIAL OR BUSINESS COOPERATION;
CARRIAGE OF GOODS OR PASSENGERS BY AIR, SEA,
RAIL OR ROAD.

I copied the first proposed paragraph from the draft law of
the National Conference for Commissioners for Uniform State
Law (NCCUSL) of the United States, dated 23 December 1999.

I copied the second paragraph from the UNCITRAL
draft law.

**The President.** What does the sponsor say?

**Senator Magsaysay.** I have no objections, Mr. President.

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

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

The Majority Leader is recognized.

**Senator Drilon.** Still on page 3, Mr. President.

**Senator Roco.** Mr. President.

**The President.** Senator Roco is recognized.

### ROCO AMENDMENT

**Senator Roco.** Mr. President, as regards line 5a, page 3, on ELECTRONIC SIGNATURE, may we just inquire if the chairman is amenable to just making this a little briefer. So that ELECTRONIC SIGNATURE can be made to read as follows:

"ELECTRONIC SIGNATURE REFERS TO ANY DISTINCTIVE MARK, CHARACTERISTIC AND/OR SOUND". Insert the word AND/ before the word "OR". Delete thereafter the phrase "PRODUCED THROUGH A COMBINATION OF LETTERS, CHARACTERS, NUMBERS OR OTHER SYMBOLS". So that the sentence will now read:

"ELECTRONIC SIGNATURE REFERS TO ANY DISTINCTIVE MARK, CHARACTERISTIC AND/OR SOUND IN ELECTRONIC FORM, REPRESENTING THE IDENTITY OF A PERSON AND ATTACHED TO OR LOGICALLY ASSOCIATED WITH A DATA MESSAGE, OR ANY METHODOLOGY OR PROCEDURES EMPLOYED OR ADOPTED BY A PERSON AND EXECUTED OR ADOPTED BY SUCH PERSON WITH THE INTENTION OF AUTHENTICATING OR APPROVING AN ELECTRONIC DOCUMENT."

We are just putting the word AND in line 5b before the word "OR" and deleting thereafter on line 5c the phrase "PRODUCED THROUGH A COMBINATION OF LETTERS, CHARACTERS, NUMBERS AND/OR OTHER SYMBOLS".

**Senator Magsaysay.** Mr. President, we have no problem with the amendment of the senator from Naga to make the paragraph shorter and simpler.

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

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

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

**Senator Drilon.** If there are no other amendments on page 3, Mr. President, may I propose an amendment on lines 16a and 16b up to page 3A. This is just a matter of style.

### DRILON AMENDMENT

Delete on page 3, lines 16a and 16b the phrase "A COLLECTION OR COMBINATION OF" and transfer the same to the end of the paragraph on page 3A, lines 16c and 16d, after the word "DATABASE". Instead of a period (.) after the word "DATABASE," insert a comma (,) and insert the phrase OR TO A COLLECTION OR COMBINATION THEREOF.

So this section will now read:

"INFORMATION" REFERS TO DATA, TEXT, IMAGES, SOUND, CODES, COMPUTER PROGRAMS, SOFTWARE AND DATABASE, OR TO A COLLECTION OR COMBINATION THEREOF.

**Senator Magsaysay.** It is accepted, Mr. President.

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

Are we on page 3A?

**Senator Drilon.** Yes, Mr. President.

**Senator Guingona.** Mr. President.

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

**Senator Guingona.** Mr. President, Section 6, line 21, does not seem to be complete. It states: "IN THE INTERPRETATION OF QUESTIONS CONCERNING MATTERS GOVERNED BY THIS ACT, WHICH ARE NOT EXPRESSLY SETTLED IN IT." We do not understand this.

**The President.** The sponsor may reply.

**Senator Magsaysay.** Mr. President, this is the title of Section 6. Maybe it can stand with some grammatical improvement.

**Senator Guingona.** The original text...

**Senator Magsaysay.** This is the UNCITRAL model law, Mr. President.

**Senator Guingona.** Yes, but it does not seem to be complete. It says: "In the interpretation of this Act, regard is to be had to its international origin..."

"IN THE INTERPRETATION OF QUESTIONS CONCERNING MATTERS GOVERNED..."

**Senator Magsaysay.** We have to continue to make sense in line 21c.

**Senator Roco.** Mr. President.

**The President.** Senator Roco is recognized.

**Senator Roco.** Mr. President, if I can try to be helpful. I am not sure if I understand it myself.

In the bill, as presented by the committee, certain rules are already established in interpreting, for instance, authentication or in interpreting the probative value of a document sent through e-mail or through e-commerce. So there are very definite rules established.

Mr. President, I know it is awkward but I think what the committee is trying to do is suggest a rule for statutory construction that when this bill is read on matters not squarely covered by express provisions—we do not have to say that—such interpretation should have due regard to its international origin and the effort to promote uniformity in its application as regards e-commerce, and it should also seek a good faith interpretation of the statute. Furthermore, it says that in construing the sections, it should be looked at in conformity—and I was going to suggest here—with the general principles of law on e-commerce and similar developments. I think that is what the committee is trying to say. I do not know how to put that in better terms, but that is what I would suggest, the way it should be. So that it is entitled STATUTORY CONSTRUCTION, and then we proceed.

So, it begins, "UNLESS, OTHERWISE, AS EXPRESSLY PROVIDED, THIS STATUTE SHALL BE CONSTRUED WITH DUE REGARD FOR its international origin and the need to promote uniformity in its application..."

**Senator Magsaysay.** Before that, Mr. President, may we listen to the senator from Cagayan de Oro.

**The President.** Senator Pimentel is recognized.

**Senator Pimentel.** Mr. President, the ambiguity starts with the title of Section 6, "Interpretation". Probably, without prejudice to the thoughts that have been expressed by Senator Roco, the title of this Section 6, "Interpretation" should include the following ideas:

"SEC. 6. Interpretation OF MATTERS NOT EXPRESSLY COVERED BY THIS ACT."

**Senator Roco.** I think that is not exactly what it says. But under some sections, rules and authentication on validity of copy are already expressed.

I think what it is trying to say here, which are not expressly settled in it, refers to the law. That is why it is awkward.

**Senator Pimentel.** My reading, Mr. President, is that, as is, there are certain issues or matters that are not expressly settled in this Act. That seems to be the premise here.

Therefore, for matters that are not expressly covered by this Act, the two paragraphs which Senator Roco had already adverted to, meaning from lines 21 to 26, with the amendment of Senator Roco, would be the ones applicable. It looks like it is the intent of this whole thing.

**Senator Roco.** Yes. Mr. President, among the three of us, we can have some consensus that Section 6 will essentially read as follows:

"STATUTORY INTERPRETATION: UNLESS OTHERWISE EXPRESSLY COVERED BY THIS ACT, THE INTERPRETATION OF QUESTIONS ARISING FROM THIS SECTION SHALL GIVE DUE REGARD to its international origin and the need to promote uniformity in its application and the observance of good faith;..."

Excuse me, Mr. President, because I am trying to... "To promote uniformity in its application and the observance of good faith..." This is awkward. We must put something else. Period (.), for the meantime, Mr. President.

**Senator Drilon.** Where is the period, Mr. President? Is it after the word "application"?

**Senator Roco.** Yes. I am just reading the continuation of the sentence. So that I am trying as much as possible to alter the report in the least possible way because they were also trying to reflect UNCITRAL. So that the more we change it, the farther it goes. That is why I am consciously trying not to change the words, Mr. President.

"STATUTORY INTERPRETATION: UNLESS OTHERWISE EXPRESSLY SETTLED IN THIS ACT..." I think this is the Pimentel amendment. "The interpretation of this law shall give due regard to its international origin and the need to promote uniformity in its application in the observance of good faith in INTERNATIONAL TRADE RELATIONS.

SUSPENSION OF SESSION

**The President.** Does the gentleman want a one-minute suspension of the session to facilitate understanding?

**Senator Roco.** Yes, Mr. President.

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

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

*It was 4:30 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.

**Senator Drilon.** Mr. President, Senator Roco has the floor.

**The President.** Senator Roco is recognized.

## ROCO-PIMENTEL AMENDMENT

**Senator Roco.** Yes, Mr. President. To repeat, the section shall read:

*STATUTORY INTERPRETATION. -*

UNLESS OTHERWISE EXPRESSLY PROVIDED FOR, THE INTERPRETATION OF THIS ACT SHALL GIVE DUE REGARD TO ITS INTERNATIONAL ORIGIN AND THE NEED TO PROMOTE UNIFORMITY IN ITS APPLICATION AND THE OBSERVANCE OF GOOD FAITH IN INTERNATIONAL TRADE RELATIONS. THE GENERALLY ACCEPTED PRINCIPLES OF INTERNATIONAL LAW AND CONVENTION ON ELECTRONIC COMMERCE SHALL LIKEWISE BE CONSIDERED.

It is just one sentence.

**Senator Magsaysay.** It is accepted, Mr. President.

**Senator Pimentel.** Mr. President.

**The President.** Senator Pimentel is recognized.

**Senator Pimentel.** In line 23, on the matter of this amendment, "the observance of good faith in international transactions", did the gentleman say that?

**Senator Roco.** Yes, Mr. President, "the observance of good faith in international trade relations."

**Senator Pimentel.** Why can we not make that "in international E-COMMERCE TRANSACTIONS"? Because we are dealing here with e-commerce. We are not only promoting good faith in general terms.

**Senator Roco.** Yes, Mr. President. It is only because I was thinking of the principle of *pacta sunt servanda* in relations, and then we cover the general principles of International Law on e-commerce in the second sentence.

**Senator Pimentel.** Yes, but this bill is for e-commerce, and I was thinking that we should focus on it. I do not think we detract from the principle of *pacta sunt servanda* by insisting that we are dealing with international e-commerce transactions.

## SUSPENSION OF SESSION

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

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

*It was 4:34 p.m.*

## RESUMPTION OF SESSION

*At 4:36 p.m., the session was resumed.*

**The President.** The session is resumed. Senator Roco is recognized.

## ROCO-PIMENTEL AMENDMENT

**Senator Roco.** There was an amendment to the proposed amendment and after consultation with the sponsor and the Majority Leader, it was accepted. So that the last phrase of the first sentence reads: "and the observance of good faith in international trade AND E-COMMERCE." The addition of the words "AND E-COMMERCE".

The rest of the sentence on the generally accepted principles of International Law as regards e-commerce remains.

So, we are glad to accept the proposed amendment to the amendment. May we ask if the committee...

**Senator Magsaysay.** We accept the amendment and the amendment to the amendment for harmony, Mr. President.

**The President.** The sponsor has accepted the amendment.

Is there any objection to this amendment? *[Silence]* There being none, the same is approved.

**Senator Drilon.** I just hope that the Secretariat can catch up with what we are proposing.

**Senator Roco.** They can manage.

**Senator Drilon.** In any case, Mr. President, we leave it at that and we just have to recheck the revised version later on.

**The President.** Originally, the Minority Leader raised the question of the murkiness of this section. The Chair will be glad if he will be part of the consensus concerning this section later on.

**Senator Drilon.** He remains confused, Mr. President, but we will wait for the new version to come out. *[Laughter]* It may clear up certain confusion.

**Senator Roco.** Mr. President, if we may.

**The President.** Senator Roco is recognized.

**Senator Roco.** Not so much of an amendment, Mr. President. We are getting into the area of definitive rules as regards data message, electronic writing, et cetera.

In the meantime, may we request, Mr. President, suspension of consideration of this bill to incorporate the approved individual amendments.

The amendments are pure preliminary. But when we get to specific rules on how we will see an authenticated signature, I suggest that we dwell on it a little because it changes many, by sheer accident... Well, it does not really change, but it creates great legal problems in civil law. So I would suggest to the Majority Leader and to the sponsor that we go slow on this, and we ask the Body, before we go to Chapter II, to suspend now the consideration of this bill. And please look at Chapter II because it is really uncharted waters and fairly difficult, at least, for me. I do not know.

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

### DRILON AMENDMENT

**Senator Drilon.** Yes, but just before we do that, Mr. President, in line 32, if we will look at this provision, "Part I" should really refer to Part II.

So, I move to amend "Part I" to say Part II, Chapter II in line 32, page 3.

**Senator Magsaysay.** It is accepted, Mr. President.

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

**Senator Drilon.** Now, there is a proposal by Senator Roco

that the Chamber and our colleagues should go over the provisions more carefully starting on page 4, and in the meantime suspend consideration of this measure and take it up again tomorrow.

**Senator Roco.** Yes, Mr. President, if we may.

**Senator Magsaysay.** I have no objection, Mr. President.

### SUSPENSION OF CONSIDERATION OF S. NO. 1902

**Senator Drilon.** There is no objection on the part of the sponsor. But before we suspend consideration of this bill, may I request that the Secretary be directed to prepare a new version of pages 1 to 3a of the bill already containing the individual amendments approved this afternoon so that our colleagues can at least see a cleaner copy.

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

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

### SUSPENSION OF SESSION

**Senator Drilon.** 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 4:41 p.m.*

### RESUMPTION OF SESSION

*At 4:42 p.m., the session was resumed.*

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

**Senator Drilon.** May I ask the Chair to recognize Sen. Vicente C. Sotto III.

**The President.** Sen. Vicente C. Sotto III is recognized.

### MOTION OF SENATOR SOTTO
#### (To Recommit S. No. 1611 to the Committee on Public Services)

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