

RECORD OF THE SENATE

MONDAY, MARCH 6, 2000

OPENING OF THE SESSION

At 3:49 p.m., the Senate President, Hon. Blas F. Ople, called the session to order.

The President. The 68th 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. Miriam Defensor Santiago.

After the prayer, the Senate Choir will lead us in the singing of the national anthem. The Choir will also render another song, entitled *Paraiso*.

Everybody rose for the prayer.

PRAYER

Senator Santiago. This is a poem written by John Greenleaf Whittier who lived from 1807 to 1892.

Dear Lord and Father of mankind,
 Forgive our foolish ways!
Re-clothe us in our rightful mind,
In purer lives thy service find,
 In deeper reverence, praise.

In simple trust like theirs who heard,
 Beside the Syrian sea,
The gracious calling of the Lord,
Let us, like them, without a word
 Rise up and follow thee.

O Sabbath rest by Galilee!
 O calm of hills above,
Where Jesus knelt to share with thee
The silence of eternity,
 Interpreted by love!

Drop thy still dews of quietness,
 Till all our strivings cease;
Take from our souls the strain and stress,
And let our ordered lives confess
 The beauty of thy peace.

Breathe through the heats of our desire
 Thy coolness and thy balm;
Let sense be dumb, let flesh retire;
Speak through the earthquake, wind, and fire,
 O still small voice of calm!

Amen.

NATIONAL ANTHEM

Everybody remained standing for the singing of the national anthem.

The President. The Chair wishes to thank the members of the Senate Choir for their uplifting music.

ROLL CALL

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

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

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

THE JOURNAL

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

* Arrived after the roll call

** On official mission

Senator Guingona. Yes, Mr. President, because the official agency is that one under the Department of Agriculture.

Senator Drilon. Would the gentleman have knowledge as to who ordered the NAMRIA to come up with a plan for land registration?

Senator Guingona. I can only assume. I do not have the positive proof, and I think that will be uncovered during the investigation.

Senator Drilon. One final point, Mr. President. The other reason I have suggested that we investigate this in the Blue Ribbon Committee is that I have been informed that the Solicitor General has, in fact, filed a motion for reconsideration with the Court of Appeals.

Would the gentleman be aware of that, Mr. President?

Senator Guingona. No, Mr. President. I am not aware of this thing. It is the first time I heard that. I am very glad that there has been a motion for reconsideration.

Senator Drilon. Yes, there was a motion for reconsideration filed so that hopefully and presumably, this decision would not yet be executed because of this pending MR. I certainly have the same observation as Senator Santiago that, indeed, when one of the heirs filed a motion for reconsideration, at best it should have only affected the aliquot portion of the land attributable to this one heir.

But in any case, Mr. President—

Senator Guingona. It was reduced from 16,000 to 6,000.

Senator Drilon. I have no more questions and I thank the gentleman for the answers.

**MOTION OF SENATOR DRILON
(Referral of Senator Guingona's Speech and
Interpellations Thereon to the Blue Ribbon
Committee as the Primary Committee and Justice
Committee as the Secondary Committee)**

I do not see anybody else wishing to take the floor in the period of interpellations. I therefore move that the privilege speech and the interpellations thereon be referred to the Blue Ribbon Committee as the primary committee and the Committee on Justice as the secondary committee.

Senator Guingona. Thank you, Mr. President.

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

SUSPENSION OF SESSION

It was 4:52 p.m.

RESUMPTION OF SESSION

At 4:53 p.m., the session was resumed.

The President. The session is resumed.

**BILL ON SECOND READING
S. No. 1902--E-Commerce Law
(Continuation)**

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

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

Senator Drilon. We are still in the period of interpellations. There are just two more of our colleagues who manifested their desire to interpellate, Sen. Raul S. Roco and Sen. Aquilino Q. Pimentel Jr.

For the period of interpellations, may I ask the Chair to recognize Senator Roco.

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

Senator Magsaysay. Thank you, Mr. President.

Senator Roco. Mr. President, I did notice with appreciation the *Journal* saying that it was reconsidered and reopened for interpellation. But I am perfectly happy to proceed to the period of amendments if this is expeditious and then we can discuss in the period of amendments whatever remaining questions I may still have.

So, I am willing to go into the period of amendments to expedite this.

Senator Magsaysay. That is a welcome statement from the gentleman from Camarines Sur, who is also a champion of IT and e-commerce.

Senator Drilon. With that, Mr. President, I ask the Chair to recognize the principal sponsor, Sen. Ramon B. Magsaysay Jr.

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

May I know the pleasure of the Majority Leader since he stated that there will be two more interpellators.

Senator Drilon. Yes, Mr. President. May I now ask the Chair to recognize Sen. Aquilino Q. Pimentel Jr.

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

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

Just last night, I was browsing the net and if the gentleman will agree to some questions, I would like to find this out: Under his proposal, which country or which local government unit would be the proper authority to collect the taxes on transactions that are done through e-commerce?

Senator Magsaysay. At present, we are not touching on present tax laws. So if somebody from within a country like the Philippines orders from overseas, the customs laws for tariff and taxes will hold true.

Senator Pimentel. That is from the end of the buyer. But I would assume that this particular bill will also apply to situations where eventually, sellers within the Philippines would be the ones from whom buyers will buy elsewhere.

Senator Magsaysay. That is correct, Mr. President. This is on a case of business to consumer or business to business. In the case of within the country, the source of taxing would be on the supplier or the business supplier. He will have to include his sale as part of his revenue to be reported to the Bureau of Internal Revenue or to the Customs.

Senator Pimentel. What about sales tax which is the lifeblood of local government?

Senator Magsaysay. The sales tax is also something that still have to be addressed in other fora because even in the United States, the state governors and the Federal government are still discussing on the impact because I understand that on a business to consumer or business to business, the Federal government would like no taxes imposed in the near future. This is something that still have to be addressed, Mr. President.

Senator Pimentel. Yes. I was wondering if we should not do that now in this particular bill, because it will certainly have a big impact on the earnings of local government units, for example, where the transaction is being conducted. And, Mr. President, perhaps, it is always good to address future situations even in this particular bill that we are now trying to craft.

Senator Magsaysay. Mr. President, I sympathize with the

gentleman from Cagayan de Oro and Mindanao. However, I feel that we should limit our subject matter to the legal framework and the admissibility in court—electronic signature, cryptography. Because if we will open this for new provisions although germane, this will complicate because again, the Department of Finance will say, "Why do we not impose these taxes?"

At any rate, all the existing tax laws will still be intact. Maybe we can file another bill separate from the electronic commerce bill based on UNCITRAL. That will eventually develop into something to give justice to the LGUs' and even to the national government's taxing power.

Senator Pimentel. Mr. President, I am sorry but I cannot accept the sympathies of the sponsor because I am not ill or something like that. It is not a question of his sympathizing with my position. I think this is a matter of law that should be addressed on the basis of what this country would need in light of this proposal. I would really think that perhaps this bill can be crafted in a manner that will embrace all foreseeable transactions that have an impact on the economic situation of this country, including taxation. It will not do for us to propose bills on a piecemeal basis if one bill can already address the matter that is being raised.

Senator Magsaysay. I understand, Mr. President.

Senator Pimentel. I hope that with that understanding, Mr. President, the sponsor would try to accommodate these concerns so that the taxing matter regarding e-commerce can be addressed in his bill.

Senator Magsaysay. If the distinguished gentleman will introduce a provision, we will certainly welcome to study the matter, Mr. President.

Senator Pimentel. Yes, we will do that then, Mr. President. Thank you.

Senator Magsaysay. Thank you, Mr. President.

Senator Pimentel. Moreover, Mr. President, one more point. Last night, in the news reported by Yahoo, I understand that certain big companies in the United States that transact business through e-commerce—a lot of them, including E-toys, Amazon books and some other companies whose names I already forgot—are experiencing a drop in their transactions. They noticed that e-commerce was very brisk during the Christmas season. *Pero pagkatapos ng Christmas season, medyo bumagsak.* There were drops as much as 30 percent, 40 percent of what they expected to transact.

I am not too sure that this is an auspicious start for us

considering that we are trying to establish a new thing in this country. And it is all the more necessary, Mr. President, to cover all circumstances so that even assuming that there would be a drop in the business of e-commerce, at least the powers of local governments in that particular business would not be unduly affected.

Senator Magsaysay. That is correct, Mr. President. The gentleman is correct in saying that there has been a drop. But we are looking at the business to consumer like in amazon.com or Yahoo or other e-tailing.

However, the constant growth of the business-to-business transactions which actually constitutes over 90 percent of the Internet commerce or e-commerce continues to grow by leaps and bounds. The business-to-consumers transactions are, of course, seasonal—the Christmas season and the New Year having given a lot of growth. But maybe after the feast, of course, there is a temporary famine which is the first three months of the year. Of course, people have slowed down in their purchasing. But in business-to-business transactions, these continue to grow by leaps and bounds.

Senator Pimentel. Yes, I agree with the sponsor that it is time for us to also formulate our own e-commerce law. And I would certainly wish to see the day when we can already be very specific as to the kind of protection we accord not only to the people engaging in that kind of business through e-commerce but also to the taxing powers of government, both central and local, Mr. President.

Senator Magsaysay. We welcome the input of the distinguished gentleman from Mindanao, Mr. President.

Senator Pimentel. Thank you, Mr. President.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. Mr. President, with the permission of the Chamber, and if Senator Magsaysay would yield, Sen. Sergio R. Osmeña III wishes to ask just one question.

Senator Magsaysay. Gladly, from my colleague from Cebu, Mr. President.

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

Senator Osmeña III. Thank you, Mr. President.

I heard again the assertion by the distinguished sponsor of

this bill that 90 percent of e-commerce now being transacted over the net, whether it be abroad or here, is on a business-to-business transaction. May I just have the basic information on what the distinguished sponsor's staff was able to gather because I have always believed that 90 percent was retailing or e-tailing rather than on a business-to-business transaction. Would that be forthcoming, Mr. President?

Senator Magsaysay. We are looking at our information, Mr. President. But basically, it is really on a business-to-business transaction. Just like ShoeMart in the Philippines, it has 160 suppliers and it has set aside the paper trail, the hard copy, and is conducting businesses with its suppliers and other service providers through e-commerce, through the Internet, through e-mail, and even through electronic banking. So, it is really a 90 percent business-to-business transaction.

Senator Osmeña III. I would like to thank the distinguished sponsor for that answer. So we can get the information from this group that gathered the information.

Senator Magsaysay. We are trying to locate if my staff here has the latest information, Mr. President.

Senator Osmeña III. Just one more clarificatory question, Mr. President.

I suppose the distinguished sponsor refers to total volume by value, not as per number of contracts.

Senator Magsaysay. That is correct, Mr. President. Based on value.

Senator Osmeña III. Thank you, Mr. President.

We would be happy and we will await the information from the distinguished sponsor.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1902

Senator Drilon. Mr. President, the Minority Leader has informed this representation that he wishes to review some of the provisions in the proposed measure and therefore requests that he be given until tomorrow to go over these before we close the period of interpellations.

With that, I move once more that we suspend consideration of Senate Bill No. 1902 under Committee Report No. 179.