

## RECORD OF THE SENATE

**THURSDAY, AUGUST 15, 1996**

### RESUMPTION OF THE SESSION

*At 11:20 a.m., the session was resumed, with the President of the Senate, Hon. Neptali A. Gonzales, presiding.*

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

**Senator Romulo.** Mr. President.

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

**Senator Romulo.** There is an Additional Reference of Business. May I ask the Secretary to read them.

**The President.** The Secretary will read the Additional Reference of Business.

### ADDITIONAL REFERENCE OF BUSINESS

#### RESOLUTION

**The Acting Secretary [Atty. Raval].** Proposed Senate Resolution No. 543, entitled

**RESOLUTION DIRECTING THE APPROPRIATE COMMITTEE/S TO INQUIRE, IN AID OF LEGISLATION, INTO THE CONTROVERSY SURROUNDING THE CONDUCT OF THE RECENT MEDICAL BOARD EXAMS AND THE PHYSICAL THERAPY EXAMINATIONS WITH THE END IN VIEW OF RECOMMENDING REMEDIAL AND APPROPRIATE POLICY MEASURES**

Introduced by Senator Flavio

**The President.** Referred to the Committee on Civil Service and Government Reorganization

### COMMUNICATIONS

**The Acting Secretary [Atty. Raval].** Letters from Chairman Celso D. Gañan of the Commission on Audit, furnishing the Senate with copies of the Auditor's Annual Audit Report on the following agencies for calendar year 1995:

Bases Conversion Development Authority; Local Water Utilities Administration; Philippine Coconut Authority; Food Terminal Inc.; Sugar Regulatory Administration; Manila Gas Corporation; Philippine Convention and Visitors Corporation; National Power Corporation; Philippine International Trading

Corporation; Center for International Trade Expositions and Missions; National Development Company; Philippine Tourism Authority; National Electrification Administration; Laguna Lake Development Authority; Philippine Cotton Corporation; and Public Estates Authority.

**The President.** Referred to the Committee on Finance

**The Acting Secretary [Atty. Raval].** Letter from Mr. Arcadio M. Carandang Jr., President of the Ermita Electronics, Inc., informing the Senate of the acceptance of the franchise granted them under Republic Act No. 8196.

**The President.** Referred to the Committee on Public Services

**The Acting Secretary [Atty. Raval].** Letter from Mr. Francisco Holigores, President of the Unicorn Communications Corporation, informing the Senate of the acceptance of the franchise granted them under Republic Act No. 8198.

**The President.** Referred to the Committee on Public Services

**Senator Romulo.** Mr. President, we have five Committee Reports here on various resolutions referring to the Convention on the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income:

Between the Government of the Republic of Philippines and the State of Israel, on Proposed Senate Resolution No. 476; between the Government of the Republic of Philippines and Romania, on Proposed Senate Resolution No. 477; between the Government of the Republic of Philippines and the Russian Federation, on Proposed Senate Resolution No. 478; between the Government of the Republic of Philippines and Poland, on Proposed Senate Resolution No. 480; and between the Government of the Republic of Philippines and the Kingdom of Denmark, on Proposed Senate Resolution No. 479.

### RESOLUTIONS ON SECOND READING

#### S. Res. Nos. 476, 477, 478, 479 and 480—Conventions on Avoidance of Double Taxation

With the consent and permission of this Chamber, may I move that we consider in chronological order all these Committee Reports on the said Proposed Senate Resolutions, one after the other together with the sponsorship, starting from Proposed Senate Resolution No. 476 and so on, as reported out by the Committee on Rules.

**The President.** Is there any objection to the motion for a joint sponsorship of these treaties and conventions? [Silence]

stockholders are Jewish families, residents of Israel. They sold out their participation in this company. I wonder whether this is covered.

**Senator Maceda.** It is not, Mr. President, because in the gentleman's example, he is saying that either there is no real property or the real property of the Philippine company is insubstantial.

**Senator Enrile.** This treaty covers a situation where a Jewish national inherits land in the Philippines and sells the land. The capital gains would be subject to tax under Philippine law. How may that income be treated under the Israeli law and vice versa?

**Senator Maceda.** According to the BIR experts, Mr. President, any gains from the sale of property received from inheritance are taxable.

**Senator Enrile.** I agree. So it is taxed here and it will be taxed also in Israel, but not more than 10 percent.

**Senator Maceda.** It really depends on what is the taxing law in Israel, whether that is taxable by them.

**Senator Enrile.** According to the treaty, it is 10 percent, 15 percent rate. Is that applicable to all?

**Senator Maceda.** That is for dividends, Mr. President.

**Senator Enrile.** And business income?

**Senator Maceda.** No, that does not affect business income.

**Senator Enrile.** Anyway, I just want to get this information, Mr. President, because eventually we will be dealing with this tax policy. When the CTRP will come to us, we will probably have to look at this very carefully in the light of all of these treaties. As I said, there is now a thinking that we should revise the base of our income tax system by limiting it to income from sources within the Philippines. After all, with all of these tax treaties, where before when there were no tax treaties like these, the amount of income tax derived from income earned abroad by Philippine nationals and residents is not that much.

I am sure that this is diminishing, considering the presence of these tax treaties against double taxation. Considering further our need for foreign investment and our desire to attract investments to come into the country to help us propel our economic development, there is now a thinking that we should match the tax system of Hong Kong, Singapore and other modernized tax systems by limiting the taxable income only to those incomes derived from sources within the Philippines. I asked this

question not so much to pry, but to gain information from these tax treaties.

Thank you, Mr. President.

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

**Senator Shahani.** Mr. President.

**The President.** The Senate President Pro Tempore, Senator Shahani, is hereby recognized.

#### SUSPENSION OF THE SESSION

**Senator Maceda.** Mr. President, may I ask for a short suspension of the session.

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

*It was 12:06 p.m.*

#### RESUMPTION OF THE SESSION

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

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

**Senator Romulo.** Mr. President.

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

#### SUSPENSION OF CONSIDERATION OF P.S. RES. NOS. 476, 477, 478, 479 AND 480

**Senator Romulo.** With the permission of the sponsor and chairman, Senator Maceda, and our colleagues, I move that we suspend the interpellation and consideration of the five Proposed Senate Resolutions on Conventions on Avoidance of Double Taxation.

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

#### BILL ON THIRD READING S. No. 950 - Special Law on Rape

**Senator Romulo.** Mr. President, we have several bills for Third Reading. The first bill is Senate Bill No. 950. This bill was approved on Second Reading last week.

I move that we vote on Third Reading on Senate Bill No. 950. Copies of the bill were distributed to the members on August 12, 1996.

**The President.** Is there any objection? [Silence] There being none, voting on Third Reading on Senate Bill No. 950 is now in order.

The Secretary will please read only the title of the bill.

**The Secretary.** Senate Bill No. 950, entitled

AN ACT EXPANDING THE DEFINITION OF THE CRIME OF RAPE, RECLASSIFYING THE SAME AS A CRIME AGAINST PERSONS, AMENDING FOR THE PURPOSE ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE, AND FOR OTHER PURPOSES

**The President.** We shall now vote on the bill and the Secretary will call the roll.

**The Secretary.**

- Alvarez ..... Yes
- Angara ..... Yes
- Coseteng ..... Yes
- Drilon ..... Yes
- Enrile ..... Yes
- Fernan ..... Yes
- Flavier ..... Yes
- Herrera ..... Yes
- Honasan ..... Yes
- Macapagal ..... Yes
- Maceda ..... Yes
- Magsaysay ..... Yes
- Mercado ..... Yes
- Ople ..... Yes
- Osmeña ..... Yes
- Revilla ..... Yes
- Roco ..... Yes

**Senator Roco.** Mr. President.

**The President.** What is the pleasure of Senator Roco?

**Senator Roco.** May I explain my vote, Mr. President.

**The President.** Senator Roco may do so.

**EXPLANATION OF VOTE OF SENATOR ROCO**

**Senator Roco.** May we say, Mr. President, that together with the principal sponsor, this has been the result of work that commenced, I think, in 1988. We wish to thank all our colleagues for the support they have given to the Anti-Rape Bill.

It seems timely also, Mr. President, that this morning, there were some criticisms mentioned about the aspect of the bill on forgiving, on pardon, in the event that there is a marriage between the victim and the offender. Normally, this would happen in the instances when the man was initially courting the woman and there is an instance of rape and later on they make up and they get married.

Let me state, Mr. President, that the law cannot replace, also on the part of the woman, the duty to stand up for her rights. If we were not to allow the pardon in the case of rape when they get married, we shall be treated to the spectacle of a married couple with pending rape charges between themselves. That was the reason, I think, the provision was retained in the bill as reported.

If we will not also allow, Mr. President, forgiveness between the husband and the wife in case there was marital rape, we are again treated to the spectacle of two people living together peacefully, but the state is intervening and insisting that there be a conviction of the legal husband.

On balance, Mr. President, although that still is noticed as a criticism, the Anti-Rape Bill has gone a long way. We again reiterate our gratitude for the support given by the Chamber. Maybe there is much more to be done to make more people conscious of women's rights; but this bill, in its entirety as approved by the Chamber, is certainly a contribution and a step forward.

For this, Mr. President, we must appreciate the efforts of Senator Shahani and our other colleagues who also filed their own versions. For myself, Mr. President, I also want to say "thank you" particularly to Senator Shahani for even placing my name ahead, although historically, in the Eighth Congress, it was Senator Shahani who filed it in this Chamber and I filed it at her behest in the House of Representatives, although the marital rape was something that I introduced where I eventually had some problems.

May we also move, Mr. President, that we be allowed to submit a written statement later on to amplify of the vote we explained. We are voting yes, with gratitude to the Chamber.

Thank you, Mr. President.

*The following is the written explanation of vote of Senator Roco:*

Mr. President, it has been 64 years since the Revised Penal Code was enacted into law. Like any

other archaic laws, there is a need to change it in response to the changing times. Admittably though, to change the whole penal code is too much a task calling for a thorough study and deliberation. The best approach, Mr. President, to such a humongous task is to prioritize changes on the provisions thereof parallel to the objective condition of our society's peace and order situation.

It is undeniable, Mr. President, that our day-to-day news speak about the miserable and heart-touching tales of victims of rape who cry "injustice" for what they have suffered under the cruel and inhumane arms of their offenders.

What is more appalling, Mr. President, is that many, if not all of these immoral offenders remain scot-free and are left unpunished either because of lack of evidence to establish reasonable doubt warranting the conviction of the accused, or for other reason which our present law on rape may have inadequately provided in conformity with the present state of our time.

Ultimately, Mr. President, all these will boil down to the flaws of the present law on rape. It is evident that the provisions of law on rape have done more harm than good; more injustice than justice.

Allow me, therefore, Mr. President, to explain the important changes proposed by the bill and its effects as well.

Foremost. The bill proposes to reclassify rape as a crime against person; no longer as a crime against chastity as it is now classified.

Such a change is brought about by the realization that a woman's chaste has no significant bearing to the crime of rape. Chastity is not even an element of the offense. In reality, Mr. President, rape is an assault on the person of a woman with the male organ as the weapon of aggression. Indeed, rape is a crime of violence that violates a woman's dignity as a person.

As a consequence of such a reclassification, Mr. President, any person possessing personal knowledge of the commission of rape may institute a complaint on behalf of the offended party. Eventually, this will have the effect of calling the Judiciary's attention to make the appropriate amendments on the provisions in the Rules of Court in conformity with the provisions of the bill. As it now stands, rape shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents, or guardian.

Second. The definition of rape has been expanded to cover not only natural, but unnatural sexual intercourse as well. Under the statutes of some countries, rape embraces natural as well as unnatural sexual intercourse because of the latter's equally evil effects on the offended party.

Under the bill, unnatural sexual intercourse will refer to the insertion of the penis into the mouth or anus of the woman; the insertion of any part of the body other than one's sexual organ; the introduction of any object or instrument into the genital or anus of the woman; or the subjecting of the woman to have sexual intercourse with an animal. It is required, however, that any of these acts be done under any of the following circumstances: (a) through force, threat or intimidation; (b) when the woman is deprived of reason or otherwise unconscious; (c) by means of fraudulent machination, abuse of authority or relationship; (d) when the woman is under fourteen (14) years of age.

Third. To address numerous complaints that husbands have been invoking marital relations as a shield for abusing their spouses, the bill proposes to penalize the husband if it will be proved that he committed the act or acts of rape defined and punished therein. This is because a spouse does not own the other spouse's body. Although spouses have the right to cohabitation which includes the right to have sexual relations, he does not have the right to enforce it in such a way that it violates the other spouse's right to liberty.

The subsequent forgiveness, however, of the legal husband by the wife as the offended party shall extinguish the criminal action or the penalty, in the same manner that the subsequent valid marriage between the offender and the offended party shall extinguish the criminal action or the penalty imposed.

Fourth. Because of the ill-effects of the crime of rape, a heavier penalty is proposed - *reclusion perpetua* to death.

The bill also specifies certain instances when a heavier penalty shall be imposed because of the presence of aggravating circumstances. It also specifies conditions when the death penalty shall be imposed.

Fifth. The offender, under the bill, shall also be sentenced to indemnify the offended party, to acknowledge the offspring and to support the said offspring in every case. The offended party shall also be entitled to the award of additional damages on a case to case basis.

Sixth. We have heard of stories of victims of rape being left in quandary when they report the incident to the authorities. The bill, in addressing such a problem, specifies the duties of the police officer who will receive a complaint for rape providing at the same time penalties for the violation of such duties.

Protective measures have also been provided that will safeguard not only the rights of the offended party but the offender as well. Support systems will also be instituted.

Finally, Mr. President, the bill calls for the establishment of Rape Crisis Centers in provinces and cities by the DSWD, DOH, DILG and DOJ in coordination with a leading non-government organization. Such centers will assist the offended party by providing them counseling, medical, and legal services. They will also undertake training programs for law enforcement officers, public prosecutors, lawyers, medico-legal officers, social workers, and barangay officials on human rights and responsibilities, on gender sensitivity and on legal management of rape cases.

The features of the bill that I have just enumerated, Mr. President, will ensure a more responsive and sensitive attitude to victims/survivors of rape. It will guarantee a more humane and equitable response to violation of women's rights.

This will also signify, Mr. President, the Philippine's intention to abide by the United Nations Convention on the Elimination of all Forms of Discrimination Against Women to which the Philippines is a signatory.

It is in this light that I vote yes, Mr. President.

**The Secretary.**

Senator Romulo ..... Yes

**The President.** Senator Romulo will explain his vote.

**EXPLANATION OF VOTE OF SENATOR ROMULO**

**Senator Romulo.** Mr. President, I vote yes, but let me be allowed to submit a more lengthy explanation of my vote.

*Note: As of Sept. 5, 1996, no written explanation of vote has been submitted*

**The Secretary.**

Senator Santiago .....  
Senator Shahani ..... Yes

**Senator Shahani.** Mr. President.

**The President.** Senator Shahani is recognized.

**EXPLANATION OF VOTE OF SENATOR SHAHANI**

**Senator Shahani.** Mr. President, may I explain my vote on the Third Reading of Senate Bill No. 950.

Mr. President, Victor Hugo once said, "No army in the world can stop an idea whose time has come." Truly, the idea of a new rape law for the Philippines has become an urgent imperative in the light of present-day realities confronting women.

Everyday we are assaulted by stories of rape of women here and abroad—of a pre-pubescent girl child in Laoag City whose lifeless body was abandoned by her assailant in a rice paddy; of a five-year old girl who barely described, in almost infant-like mumbles, the savagery inflicted upon her and her younger siblings by their own grandfather; of Karen Vertido of Davao City who risked being victimized several times over by a legal system insensitive to her plight, and by a society that heaps the blame and stigma on the woman herself. But behind the screaming headlines are the countless other women enduring violent abuse in silence. The tragedy of it all is that the gaps in our existing law and legal system help perpetuate such violence.

Laws, of course, are not immutable. They are, at bottom, reflective of the interests, perspectives and foresight or lack of foresight of the people who make them. Just as the norms of society change, so too should laws change with the times.

Centuries of subjugation have relegated women all over the world to rigid cultural stereotypes that make them susceptible and vulnerable to abuse and violence. Women have struggled through time to be genuinely heard in a monotheistic and patriarchal society which have confined their roles to the kitchen and the bedroom.

Mr. President, women now are redefining themselves from man's convenient companion to man's equal partner, from the family's nurturer to its pillar of strength, from the marginalized of community to the indispensable half

in nation-building. Women are asserting themselves for recognition and enforcement of their inherent and inalienable rights as human beings.

Mr. President, which is precisely why we needed a law to reclassify rape as a crime against persons—one that admits rape as a violence to the very person of a woman, to her very dignity and liberty to control her own body. While rape is violence inflicted upon individual women, it nevertheless inextricably constitutes an affront to the status of women in general.

We, therefore, need a law, Mr. President, that protects women from this macabre phenomenon, one that shields them in the home and the outside world against their very husband, father or brother, or complete stranger. We need a law that smashes every myth and stigma surrounding each rape, precluding the popular tendency for bashing the victim and glorifying the criminal. We need a rape law that provides support services for the victim and her family, the better for them to cope with and survive the trauma. We need a law that will institutionalize the sensitivity and responsiveness needed of our law enforcement agencies, the prosecution service, the courts as well as media.

Mr. President, as is well known, Philippine law on rape has remained essentially unchanged since its adoption from the Spanish Penal Code. Its archaic framework has withstood vast permutations throughout the decades in our social structure that saw women take on a more active role in the family and in the workplace. It is that same bedrock of gender stereotype enshrined in our Revised Penal Code that has, through time, permeated the mindset of our courts, our prosecutors, our law enforcers, and our media often with tragic results. It proved detrimental to the multitude of cases, of women-victims of rape.

Mr. President, we will recall that I first filed Senate Bill No. 1338 in 1988 seeking to redefine the crime of rape. Its counterpart bill in the House of Representatives was authored by then congressman and now a distinguished member of this Chamber, Senator Roco, who has been such a staunch defender of the bill.

At that time, Mr. President, the bill was considered too radical, but I held steadfast in the belief that the law should be used as a tool to raise the status of women and change deeply-ingrained cultural attitudes inimical to the dignity of the Filipino women.

The story repeated itself during the Ninth Congress which met from 1992 to 1995. It was during this time that women nongovernmental organizations from all over the country orga-

nized themselves and rallied behind the bill. But unfortunately, the same opposition was still entrenched against the bill. All the same, I never lost faith that somehow the seeds for a review and rethinking of the issue of rape have been planted.

It has been a tough and long struggle from 1988. But at this Tenth Congress, it is evident that our Chamber has opened itself to the concept of women's rights as human rights. Today, we speak as one Body, as one united team on the issue.

Mr. President, as we vote today on Third Reading on Senate Bill No. 950, no words can accurately capture the joy and satisfaction I feel in seeing that our effort has borne fruit. My singular wish for the passage into law of this bill is almost coming into full fruition.

This morning, I should like to thank all our colleagues in this Chamber, in particular those fine and brilliant minds in this Chamber who played such a major role during the periods of interpellation and amendments and who subsequently amended, fine-tuned and refined this present version before us.

In particular, I should also like to thank the Senate President and our Majority Leader who gave us all the time in order that we could come to this stage where we are now.

Indeed, it was an unforgettable manifestation in this Chamber of the partnership between men and women in order that we can expand and enlarge our concept of human rights.

We can, therefore, take comfort in the fact that we in the Senate shall have a legacy for all the women, not just of the Philippines but all over the world who are now carefully watching the progress of this piece of legislation.

With this, Mr. President, I register my resounding Yes vote on Senate Bill No. 950.

Thank you, Mr. President.

The Acting Secretary [Atty. Raval].

Sotto .....  
Tatad .....  
Webb .....  
The President ..... Yes

APPROVAL OF S. NO. 950 ON THIRD READING

The President. With 13 affirmative votes, no negative vote, and no abstention, Senate Bill No. 950 is approved on Third Reading.