

RECORD OF THE SENATE

WEDNESDAY, FEBRUARY 8, 1995

RESUMPTION OF THE SESSION

At 10:56 a.m., the session was resumed with the Honorable Jose D. Lina Jr., presiding.

The Presiding Officer [Senator Lina]: The session is resumed.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Lina]: The Majority Leader is recognized.

Senator Romulo: Mr. President, we have an Additional Reference of Business. May I ask the Secretary to read the same.

The Presiding Officer [Senator Lina]: The Secretary will please read the Order of Business.

ADDITIONAL REFERENCE OF BUSINESS

RESOLUTION

The Secretary: Proposed Senated Resolution No. 1121, entitled

RESOLUTION URGING THE SENATE COMMITTEE ON URBAN PLANNING, HOUSING AND RESETTLEMENT TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE TENURIAL STATUS AS WELL AS ACTUAL LAND USE, OF ALL LANDS CONTAINED WITHIN THE PAYATAS ESTATE IN ORDER TO DETERMINE VIABLE LOCATIONS FOR SOCIALIZED AND LOW-COST HOUSING, AND OTHER ALLIED PROGRAMS OF GOVERNMENT.

Introduced by Senator Biazon.

The Presiding Officer [Senator Lina]: Referred to the Committee on Urban Planning, Housing and Resettlement.

COMMITTEE REPORTS

The Secretary: Committee Report No. 878, submitted by the Committee on Health and Demography on Senate Bill No. 46 with Senator Maceda as author, entitled

AN ACT TO MAKE THE WISHES OF ANY PERSON

DONATING ANY PART OF HIS HUMAN ORGAN OR BODY RESPECTED BY AND BINDING UPON HIS EXECUTOR OR ADMINISTRATOR, HEIRS AND ALL MEMBERS OF HIS FAMILY, AMENDING FOR THE PURPOSE REPUBLIC ACT NUMBERED THREE HUNDRED FORTY-NINE, AS AMENDED,

recommending its transmittal to the Archives.

The Presiding Officer [Senator Lina]: To the Archives.

The Secretary: Committee Report No. 879, submitted by the Committee on Health and Demography on House Bill No. 322, introduced by Congresswoman Ecleo, entitled

AN ACT ESTABLISHING A TEN-BED CAPACITY MUNICIPAL HOSPITAL IN THE MUNICIPALITY OF SAN JOSE, PROVINCE OF SURIGAO DEL NORTE, TO BE KNOWN AS THE SAN JOSE MUNICIPAL HOSPITAL, AND APPROPRIATING FUNDS THEREFOR,

recommending its approval with amendments.

Sponsor: Senator Webb

The Presiding Officer [Senator Lina]: To the Calendar for Ordinary Business.

The Secretary: Committee Report No. 880, submitted by the Committee on Health and Demography on House Bill No. 6837, introduced by Congressman Zapata, entitled

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A TEN-BED MUNICIPAL HOSPITAL IN THE MUNICIPALITY OF LICUAN-BAAY, PROVINCE OF ABRA, TO BE KNOWN AS NORTHERN ABRA MUNICIPAL HOSPITAL, AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR,

recommending its approval with amendments.

Sponsor: Senator Webb

The Presiding Officer [Senator Lina]: To the Calendar for Ordinary Business.

The Secretary: Committee Report No. 881, prepared and submitted by the Committee on Health and Demography on

1111, 1630, 6645, 7030, 11983, 13298, 13375, 13515 and 13853.

The Presiding Officer [Senator Lina]: Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Romulo: May I also move, Mr. President, that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Senate Concurrent Resolution No. 36 under Committee Report No. 889. This is the amendment to our legislative calendar providing for an extension of one week from February 9 to February 16 and then an extension of another week from June 8 to June 15.

The Presiding Officer [Senator Lina]: Is there any objection?

Senator Maceda: Mr. President.

The Presiding Officer [Senator Lina]: Before we decide on the motion, Senator Maceda is recognized.

QUESTION OF QUORUM

Senator Maceda: Pursuant to the Mercado prayer, Mr. President, I raise the question of quorum.

The Presiding Officer [Senator Lina]: The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a suspension of the session.

The Presiding Officer [Senator Lina]: The session is suspended, if there is no objection. [There was none.]

It was 11:06 a.m.

RESUMPTION OF THE SESSION

At 11:11 a.m., the session was resumed.

The Presiding Officer [Senator Lina]: The session is resumed.

Senator Maceda: Mr. President.

The Presiding Officer [Senator Lina]: Senator Maceda is recognized.

Senator Maceda: We take judicial notice of the presence of a quorum with the arrival of two Senators. So, I withdraw the motion to obviate a roll call.

The Presiding Officer [Senator Lina]: The motion is withdrawn.

BILL ON SECOND READING Senate Bill No. 1998 - Regulating the Practice of Optometry (Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 1998 as reported out under Committee Report No. 764.

The Presiding Officer [Senator Lina]: Resumption of consideration of Senate Bill No. 1998 is now in order.

Senator Romulo: Mr. President, we approved the Committee amendments last night and we are now in the period of individual amendments. The clean copies of the bill, as amended with the Committee amendments, have been distributed on the desk of each of our Colleagues.

May I ask that the Chair recognize the Chairman of the Committee on Health and Demography, Senator Webb, and Senator Mercado for the amendments.

Senator Mercado: Mr. President.

The Presiding Officer [Senator Lina]: Senator Mercado is recognized.

Senator Mercado: Mr. President, inasmuch as we received this only a few minutes ago, may we have a few minutes to go over the draft with the Committee amendments so that we will be able to study our proposed individual amendments.

SUSPENSION OF CONSIDERATION OF S. NO. 1998

Senator Romulo: Mr. President, I move that we suspend consideration of Senate Bill No. 1998.

The Presiding Officer [Senator Lina]: Is there any objection? [Silence] Hearing none, the motion is approved.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may we have a few minutes suspension of the session.

a reduction of personnel will be up to 30 percent. That, Mr. President, can translate into savings in the budget which, hopefully, can be transferred from being concentrated on personal services to the more important aspect of equipment acquisition.

As regards letter (a), we will have, not necessarily expenditure, but the possibility of having savings that would be part of the funds that we will use to purchase equipment.

Senator Maceda: Thank you, Mr. President, for that and I welcome that. We skip letter (b) and go to letter (c)—relocation, improvement, and construction of bases and other facilities.

How much is the price tag for this, if any? Or, if it is savings, how much is the projected savings from this?

Senator Mercado: Mr. President, what will happen here is, while there will be relocation cost, improvement cost and construction cost, we are also going to give up the bases. We are also going to convert the bases into useful commercial uses and raise the funds for the modernization through such scheme.

As we had explained to Senator Gonzales, who interpellated this Representation extensively on the financial aspect of this particular measure, there will be sales not only of properties of the Armed Forces under the Bases Conversion Plan but even those that are not under it.

However, in terms of its financial requirements, it is true there will also be requirements for bases development and they can be broken down and will come up to something like P19.448 billion. But, as I have mentioned previously, in the program for bases development, there will also be income-generating activities as a consequence of the sale of some properties of the Armed Forces.

QUESTION OF QUORUM

Senator Maceda: Mr. President, with the indulgence of the Gentleman. As we know, according to Emil Jurado, I am the campaign manager, the PR man and the *utusan* of the opposition. We have campaign schedules tonight, but I am discharging my functions here in the Senate. It is not fair that I am tied down here in the Senate while other Members of the Chamber do not care whether these measures are passed or not.

I raise a question of quorum, Mr. President.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a suspension

of the session.

The Presiding Officer [Senator Webb]: The session is suspended, if there is no objection? [*There was none.*]

It was 6:54 p.m.

RESUMPTION OF THE SESSION

At 7:17 p.m., the session was resumed with Senator Agapito A. Aquino, presiding.

The Presiding Officer [Senator Aquino]: The session is resumed.

Senator Maceda: Mr. President, again, in a spirit of cooperation with the Majority, so as to be able to take up another important pending bill, I withdraw my motion for a quorum.

The Presiding Officer [Senator Aquino]: The Chair thanks the Gentleman again.

SUSPENSION OF CONSIDERATION OF S. NO. 1867

Senator Romulo: May I move then that we suspend consideration of Senate Bill No. 1867, the AFP Modernization Bill.

The Presiding Officer [Senator Aquino]: Is there any objection? [*Silence*] Hearing none, the motion is approved.

BILL ON SECOND READING Senate Bill No. 1998—Regulating the Practice of Optometry (Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 1998 as reported out under Committee Report No. 764.

The Presiding Officer [Senator Aquino]: Resumption of consideration of Senate Bill No. 1998 is now in order.

Senator Romulo: We are in the period of individual amendments. May I ask that the Chairman of the Committee on Health and Demography, Senator Webb, be recognized, with the distinguished Gentleman from Quezon City and Leyte, Senator Mercado, for his amendments.

The Presiding Officer [Senator Aquino]: Senator Webb is recognized, as well as Senator Mercado for his individual amendments.

Senator Mercado: Mr. President, I would like to propose an amendment on Section 3, paragraph...

Senator Romulo: Mr. President, with the permission of Senator Mercado, may I ask that Senator Gonzales be recognized to interpellate.

The Presiding Officer [Senator Aquino]: With the permission of Senator Mercado, Senator Gonzales is recognized.

Senator Gonzales: Thank you, Mr. President.

I have many questions and issues to be raised in connection with Sections 6 and 7 of this bill which would tend to establish why I consider these two provisions as unreasonable. However, it now appears that by virtue of Committee amendments, Sections 6 and 7 have already been deleted from the original bill.

Now, I would want it established, Mr. President, that the deletion of Sections 6 and 7 of Senate Bill No. 1998 does not in any way settle the issue of whether or not a corporation, by engaging or employing the services of an optometrist, is legal or illegal under existing laws.

In short, it is not meant to affect, in one way or another, the suit that has been brought by the Philippine Optometry Association holding or positing that that constitutes an indirect practice of optometry and, therefore, in violation of the existing optometry law or even under this bill if and when it becomes a law.

Is that a proper or correct understanding of the implications of the deletion of Sections 6 and 7?

Senator Webb: That is the accurate interpretation, Mr. President.

Senator Gonzales: Yes, Mr. President, and I want to make that of record as my own personal stand, that this does not in any way settle that issue, but the courts will be called upon to rule on this very important issue. Our objections or interpellations have been limited to Sections 6 and 7 of this bill, Mr. President.

With that statement I, therefore, conclude my own interpellations which, at this point, is no longer necessary having been foreclosed by the Committee amendments deleting Sections 6 and 7 of this bill.

Senator Webb: Thank you, Mr. President.

Senator Osmeña: Mr. President, with the permission of the Chairman, may I ask Senator Gonzales a few questions.

The Presiding Officer [Senator Aquino]: If Senator Gonzales is willing.

Senator Gonzales: Very willing, Mr. President, to the distinguished Gentleman from Cebu.

Senator Osmeña: Mr. President, if five people, who are not licensed to practice the profession, form a corporation under the Corporation Law of the Philippines and, therefore, employ persons who are licensed to practice the profession and open an establishment for the purpose of providing services which properly can be dispensed by these persons who are licensed, would this not be a legal, permissible, and proper conduct of professional and business practice?

Senator Gonzales: In fact, Mr. President, that is one of the instances that I would have added in my interpellation, but this is on the assumption that Sections 6 and 7 still remain as integral part of the bill. That is why I do not want it interpreted that we are in any way settling an issue that is now pending before the court. Let the case be decided in accordance with existing laws and let not our action in any way affect that legal issue.

Senator Osmeña: Mr. President, as far as a case pending in court is concerned, it is incumbent upon the attorney of the persons being sued to file a motion to dismiss on the ground that the issue has become moot and academic.

Senator Gonzales: No, Mr. President. Precisely, that is what I am trying to avoid, by putting into the *Record* that we are not foreclosing or making any decision on a case that is now pending before the Judiciary, to give the court the full opportunity to exercise its judicial power.

Senator Osmeña: Granting that, Mr. President, would the same case prosper after the enactment of this law?

Senator Gonzales: I feel that the question is still a judicial one because the question raised is: Can a corporation, which is not a natural person, engage in the practice of optometry? I think that is the issue before the courts. The additional issue is: Can a corporation, by employing optometrists, be said to be indirectly practicing optometry? We do not wish to affect, in one way or another, that particular judicial issue, Mr. President.

Senator Osmeña: Mr. President, when patients come to a hospital, like the Makati Medical Center, which is a stock corporation and they are admitted and undergo surgery, is it the understanding of the distinguished Gentleman that it is the Makati Medical Center that enters the operating room and uses the scalpel?

Senator Gonzales: Mr. President, I think, in the course of my interpellations, I said that the bottom line is what constitutes practice. What is "practicing?" Then I posited the question in a situation as the Gentleman interposed: Who is actually practicing the profession? Is it the corporation or is it the optometrist employed by it?

On the other hand, we do recognize that that issue is before the courts now and there might be an implication that, because of the Committee amendment deleting Sections 6 and 7, we have already ruled on that issue which is beyond our competence, Mr. President.

Senator Osmeña: Whether or not this law has a retroactive effect is not in question. It cannot retroact. So, a case that was filed arising from an existing law at the time it was filed will have to be decided on the basis of that law.

Senator Gonzales: Yes, Mr. President.

Senator Osmeña: But a case similar to that which would be filed before the enactment of this bill into law would, in my opinion, not prosper. I am not a lawyer, Mr. President.

Senator Gonzales: I think the legal basis of the case remains because many of these provisions are lifted bodily from the old Optometry Law. That is now involved in a case before the courts.

Senator Osmeña: Mr. President, would the Gentleman favor us—given his standing and acknowledged ascendancy in the legal profession—the privilege of introducing an amendment to this bill which would, in effect, clearly and unequivocally state that corporations that hire optometrists are not engaged in the practice of that profession?

Senator Gonzales: Mr. President, indeed, that is a policy matter, and I want to respect the Committee system which is a time-honored institution in a deliberative body like the Senate. I would rather leave that initiative to the distinguished Sponsor, who is the Chairman of the Committee.

Senator Osmeña: But, Mr. President, in a deliberative Body like this, we also have a period of individual amendments.

Senator Gonzales: Yes, Mr. President, we do. But under the circumstances, being aware of a pending case and the prerogative of any group of optometrists to question that before the court, I do respect that judgment.

What I am saying is, if they so desire to pursue their case, then so be it. But our actions should not be interpreted to mean

that we are already settling that issue, and therefore foreclosing the continuance of said case.

Senator Osmeña: No, Mr. President. There are two separate and different issues here: first, whether or not this bill, if enacted into law, would foreclose a future action; and the second one is whether it would retroact and effect the existing pending action. I think on the second case there is no doubt whatsoever. In the first case, it is our duty.

In the light of our exchange here today, I think a cloud of doubt has been created which could be the basis of a new case being filed. So it is our duty to spell it out clearly. Since we deleted Section 6, the intention of this Body is to allow corporations to hire professionals to engage in the service. And therefore we should state that categorically.

Mr. President, if the Gentleman will not make that amendment, I reserve the right to introduce that amendment in the period of amendments.

Senator Gonzales: It is the Gentleman's right and prerogative to do so, Mr. President. I am only saying that, probably, that will spark a very long and protracted debate because that is now a major policy issue.

Senator Osmeña: Mr. President, if that be the case, I think we have to confront that policy issue. We cannot leave it hanging in the records in the light of the doubts that have been created by our own exchange here tonight.

Senator Gonzales: We have already said our piece in respect to this particular issue. The Gentleman is within his rights to do whatever he thinks ought to be done under the premises.

Senator Osmeña: Thank you, Mr. President.

The Presiding Officer [Senator Aquino]: The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo: May I ask for a one-minute suspension of the session.

The Presiding Officer [Senator Aquino]: The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 7:32 p.m.

RESUMPTION OF THE SESSION

At 7:33 p.m., the session was resumed.

The Presiding Officer [Senator Aquino]: The session is resumed.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1998

Senator Romulo: Mr. President, I move that we suspend consideration of Senate Bill No. 1998 until tomorrow.

The Presiding Officer [Senator Aquino]: Is there any objection? [*Silence*] Hearing none, the motion is approved.

Senator Romulo: Mr. President, there are Additional Reference of Business. May I ask the Secretary to read the Additional Reference of Business.

The Presiding Officer [Senator Aquino]: The Secretary will please read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

COMMITTEE REPORTS

The Secretary: Committee Report No. 898, prepared and submitted by the Committee on Health and Demography on Senate Bill No. 2055 with Senators Alvarez and Webb as authors thereof, entitled

AN ACT PROMULGATING THE PHILIPPINE NATIONAL STANDARDS FOR DRINKING WATER, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill No. 1397.

Sponsors: Senators Webb and Alvarez

The Presiding Officer [Senator Aquino]: To the Calendar for Ordinary Business.

The Secretary: Committee Report No. 899, prepared and submitted by the Committee on Cultural Communities on Senate Bill No. 2056 with Senators Rasul, Macapagal, and Coseteng as authors thereof, entitled

AN ACT TO PROTECT THE RIGHTS OF INDIGENOUS CULTURAL COMMUNITIES, CREATING THE COMMISSION ON INDIGENOUS CULTURAL COMMUNITIES AND ANCESTRAL DOMAINS, DEFINING ITS POWERS AND FUNCTIONS, AND APPROPRIATING FUNDS THEREFOR

recommending its approval in substitution of Senate Bill Nos. 1029 and 1849.

Dissenting: Senator Osmeña

Sponsors: Senators Rasul, Macapagal and Coseteng

The Presiding Officer [Senator Aquino]: To the Calendar for Ordinary Business.

SPECIAL ORDERS

Senator Romulo: Mr. President, with the permission of the Body, may I make an omnibus motion that all the subsequent bills to be read under the Second Additional Reference of Business be transferred thereafter to the Calendar for Special Orders.

The Presiding Officer [Senator Aquino]: Is there any objection to the motion? [*Silence*] Hearing none, the motion is approved.

SECOND ADDITIONAL REFERENCE OF BUSINESS

COMMITTEE REPORTS

The Secretary: Committee Report No. 900, submitted by the Committee on Public Services on House Bill No. 12680, introduced by Congressman Lagman, *et al.*, entitled --

AN ACT GRANTING THE AZ COMMUNICATIONS NETWORK, INC. A FRANCHISE TO CONSTRUCT, INSTALL, OPERATE AND MAINTAIN PUBLIC RADIOTELEPHONE AND RADIOTELEGRAPH COASTAL STATIONS AND PUBLIC-FIXED AND PUBLIC-BASED AND LAND-MOBILE STATIONS FOR THE RECEPTION AND TRANSMISSION OF RADIOTELEPHONE AND RADIOTELEGRAPH COMMUNICATIONS WITHIN THE PHILIPPINES,

recommending its approval with amendments.