

RECORD OF THE SENATE

TUESDAY, JANUARY 31, 1995

RESUMPTION OF THE SESSION

At 10:35 a.m., the session was resumed with the Honorable Edgardo J. Angara, President of the Senate, presiding.

The President: The session is resumed.

The Majority Leader is recognized.

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

The President: The Secretary will please read the Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

MESSAGES OF THE PRESIDENT OF THE PHILIPPINES

The Secretary:

January 24, 1995

Honorable EDGARDO J. ANGARA
Senate President
Senate of the Philippines
Senate, Manila

Dear Senate President Angara,

Pursuant to the provisions of Section 26 (2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1639, entitled

AN ACT INSTITUTING A NEW SYSTEM OF MINERAL RESOURCES EXPLORATION, DEVELOPMENT, UTILIZATION AND CONSERVATION PROVIDING FOR ORGANIZATIONAL AND INSTITUTIONAL ARRANGEMENT AND FOR OTHER PURPOSES,

to meet the public emergency consisting of the need to bring about imperative reforms and structural changes in the Philippine mining industry, which is a vital segment in the country's thrust to attain newly-industrialized status at the turn of the century, in order to make it more globally competitive especially in the context of a post-GATT/WTO era.

Best regards.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

cc: Hon. Jose De Venecia, Jr.
Speaker
House of Representatives
Capitol Hills, Quezon City

The President: To the Committee on Rules.

The Secretary:

January 24, 1995

Honorable EDGARDO J. ANGARA
Senate President
Senate of the Philippines
Senate, Manila

Dear Senate President Angara,

Pursuant to the provisions of Section 26 (2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of Senate Bill No. 1892, entitled

AN ACT AMENDING PRESIDENTIAL DECREE NO. 269, AS AMENDED, INCREASING THE AUTHORIZED CAPITAL STOCK OF THE NATIONAL ELECTRIFICATION ADMINISTRATION AND FOR OTHER PURPOSES,

to meet the public emergency consisting of the need to complete the alternative energy programs, and to ensure adequate supply of electricity to unserved municipalities and barangays by the National Electrification Administration.

Best regards.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

cc: Hon. Jose De Venecia, Jr.
Speaker
House of Representatives
Capitol Hills, Quezon City

The President: To the Committee on Rules.

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 are in the period of interpellations. May I ask that the Chairman of the Committee on Health and Demography, Senator Webb, be recognized.

The Presiding Officer [Senator Lina]. Senator Webb is recognized.

Senator Webb: Thank you, Mr. President. I delivered last week the sponsorship speech. I am now ready for any interpellations, if there are any.

SUSPENSION OF THE SESSION

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

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

It was 11:04 a.m.

RESUMPTION OF THE SESSION

At 11:05 a.m., the session was resumed.

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

Senator Romulo: Mr. President, for the interpellation, may I ask that the distinguished Lady from Pampanga, Pangasinan, and Negros Occidental, Senator Macapagal, be recognized.

The Presiding Officer [Senator Lina]. Senator Macapagal is recognized.

Senator Macapagal: Thank you, Mr. President.

Will the distinguished Chairman of the Committee on Health yield for just a few questions?

Senator Webb: Certainly, to my knowledgeable neighbor, Mr. President.

Senator Macapagal: Mr. President, what I will ask comes from the concern of corporations that hire optometrists. What

they would like to know from the Gentleman is what is the rationale behind prohibiting corporations from engaging the services of optometrists.

Senator Webb: Mr. President, a corporation is not the same as an individual human being for one thing. A corporation cannot be a doctor or a lawyer. Only a human being may be permitted to practice medicine or law.

Let me give the Lady Senator an example, if we are talking here of possible discrimination. There are two doctors of medicine who passed the medical board. If, for any reason, one is allowed to practice and the other is not, then that, to me, is discrimination. In the same token, there is no discrimination if a corporation is prohibited from practicing optometry while a duly licensed optometrist is allowed to do so.

No corporation is allowed to practice law, medicine or other professions. Allowing a certain corporation to continue practicing optometry, to me, is discrimination. Prohibiting such corporation from doing so will even equalize the situation instead of bringing about discrimination.

Besides, if we look at the Optometry Law, I think it is very clear that a corporation cannot practice optometry. If there is any corporation right now that is practicing optometry, then it is doing so against the provisions of the Optometry Law. In fact, the Samahan ng Optometrists ng Pilipinas has filed a case against a specific optical shop primarily because it continues to do so under a name of a corporation.

Senator Macapagal: Mr. President, what is the difference between a corporation hiring the services of an optometrist and a hospital hiring the services of physicians?

Senator Webb: Mr. President, let me answer that. That is a good question.

There is a law that allows a hospital to hire professionals in pursuit of its objectives. That is Republic Act No. 4226 or the Hospital Licensure Act. A hospital is a place devoted primarily to the maintenance and operation of facilities for diagnosis, treatment and care of individuals suffering from a variety of illnesses and diseases. It is incidental that these facilities should be operated by knowledgeable and skilled professionals.

Senator Macapagal: In contrast, what would be the difference between a hospital and a corporation that is using the services of optometrists?

Senator Webb: I think I had clarified that, Mr. President. But let me expand.

The optometrist for one thing has a peculiar relationship with a patient and this is primarily based not on profit, though people will say that one enters a profession primarily to make money. But under their Code of Ethics, it is clearly stated that one goes there as a doctor primarily to cure people.

A corporation, Mr. President, is a different entity. Primarily it is there to make money. In fact, if a corporation were to hire an optometrist then he is divided between his loyalty to the corporation and his love and affection for his patient because a corporation may have a specific product that it wants to push. And as such, an optometrist is told to push a particular product for whatever it is worth, "Kailangang itulak natin ito sapagkat ito ang ating produkto."

Sa optometrist po ay hindi ganoon sapagkat wala kayong makikitang abogado o duktor na nag-a-advertise na ang ginagamit ay trade name or corporate name. In fact, in advertisement, though not very clear kung pinapayagan ito, ay hindi kayo puwedeng gumamit ng korporasyon kundi iyong mga pangalan. At iyan po ang ipinagbabawal.

Hindi po ipinagbabawal ang pagpapatuloy ng negosyo ng mga optometrist. Ang ipinagbabawal lamang ay iyong korporasyon dahil alam naman nating pag mayroong sakunang nangyari ay napakahirap idimanda ang korporasyon. Hindi katulad ng isang tao na personal ang pagdadala ng serbisyo kaya mas madaling matunton ang kaniyang pagkakamali hindi kapareho ng isang korporasyon.

Senator Macapagal: Subalit kung ihahambing po natin sa isang hospital, mayroong duktor iyong hospital at nagkaroon ng sakuna, nadi-demanda rin naman iyong hospital. Hindi po ba pareho na rin iyon kung idi-demanda iyong korporasyon na mayroong optometrist na nagtatrabaho doon?

Senator Webb: Tama po iyan ngunit ang hospital ay regulated by the Department of Health. Ang korporasyon po ay hindi man lamang regulated ng Professional Regulation Commission hindi kapareho ng mga optometrist, they are regulated. Wala pong nag-reregulate sa korporasyon. Kung mayroon kayong optical shop ngayon, wala pong nagre-regulate diyan kaya ang maaaring mabigyan ng kasalanan ay iyong optometrist na nagtatrabaho sa kanila. Ngunit sila po ay libre sa kasong pagkakamali. Nabanggit din ng isang korporasyon na napakarami nilang trabahador na madi-displace. Iyan po ay aking sasagutin mamaya.

Senator Macapagal: So ang pagkakaiba pala, ang mga hospital ay nasa ilalim ng regulation ng Department of Health at ang optical shop ay walang regulasyon?

Senator Webb: Hindi po sila kasali dito sa Professional Regulation Commission.

And if I may cite an opinion of the Professional Regulation Commission noong 1989 pa which I think is of great importance for us for the record. Ito ay sulat ng Professional Regulation Commission sa Chairman ng Committee on Health of the House na si Congressman Narciso Monfort. This was dated July 20, 1989, which states:

Optical corporation is a juridical person and is not and cannot be authorized to practice optometry in the Philippines.

It is respectfully prayed that the appropriate agency of the Government be asked to prosecute the President of optical corporations.

The ill effects of the corporate practice of optometry is dangerous, and at the same time, injurious to public health when protection of public service, welfare and interest is required.

Senator Macapagal: Iyon pong mga law offices, hindi ba masasabi rin nating ito ay nagha-hire din ng serbisyo ng mga abogado? Hindi ba maihahambing din natin ito sa optical shop?

Senator Webb: Tama po iyan. Pero ang korporasyon po ay hindi puwedeng mag-hire. Iyong mga abogado, ito po ay hindi natin ipinagbabawal. Ang sinasabi lamang natin, kailangang gamitin iyong pangalan noong tao, pero hindi puwedeng gumamit ng trade name o iyong tinatawag nating "commercialism."

Senator Macapagal: Ang problema po ay hindi nire-regulate iyong optical shop kung kaya mahirap makapag-practice ng optometry iyong optical shop. Hindi po ba puwede nating ihiwalay iyong pagha-hire ng optometrist doon sa pagpa-practice ng optometry? Sapagkat kung titingnan ninyo ang interpretasyon dito sa "Prohibition Against Indirect Practice of Optometry," lumalabas na "no person shall hire the services of an optometrist."

Puwede naman nating sabihin na "no corporation can practice the profession of optometry." Pero iyong sabihin natin na "no person, natural or juridical, can hire the services of an optometrist," iyon ho ang parang mukhang mabigat. Lalo na kung sasabihin pa nga natin na "no hospital can engage in the profession of medicine." But hospitals can hire doctors. No law office can engage in the practice of law, but a law office can hire lawyers.

Kaya iyang prohibition against hiring ay parang naiiba roon sa anyo ng relasyon ng ibang mga propesyon at iyang mga korporasyon o samahang nagha-hire ng ibang mga propesyonal sa ibang propesyon.

Senator Webb: Iyong law firm po ay talagang puwedeng mag-hire ng mga abugado because it is a law firm. Dito po naman sa panukalang-batas na ito ay ipinagbabawal natin na mag-hire ang korporasyon ng mga optometrists. Ang sinasabi natin, iyong optometrist ay puwedeng mag-hire ng optometrist sa pasubali na hindi sila gagamit ng trade name; na hindi po puwede ang korporasyon.

Sapagkat may ruling po ang Securities and Exchange Commission tungkol dito. This is their opinion, dated August 30, 1989: "Optical corporations can neither practice optometry nor hire optometrists to carry on their business of practicing optometry. For this would constitute practice of profession which cannot be legally performed by a corporation." Ito po ang opinyon ng SEC.

Senator Macapagal: Ano po ba ang batas tungkol sa bagay na ito sa ibang bansa?

Senator Webb: Sa ibang bansa, ang korporasyon ay hindi po pinapayagang—

Senator Macapagal: Hindi rin sila pinapayagang mag-hire?

Senator Webb: —mag-hire ng mga optometrists.

Senator Macapagal: Mayroon po kaya tayong kopya upang maihambing natin ang regulasyon sa ibang bansa dito sa atin—Halimbawa, sa Amerika o sa Europa—para makita natin kung paano tayo makakahanap ng solusyon tungkol dito sa problema ng mga optical companies na sa ngayon ay patuloy ang negosyo at nagha-hire ng optometrists.

Paano kaya nangyari na dito sa Pilipinas ay nagkakaisa tayo? Hindi ko po talaga alam ang batas sa ibang bansa tungkol dito. Sana ay mayroon tayong mga halimbawang mapapagaralan para makahanap ng solusyon sa problemang ito.

Senator Webb: Sasagutin ko po lamang iyon sa pamamagitan ng isang napakalaking bansa katulad ng Amerika bilang halimbawa. Iyan po ay ipinagbabawal. Wala pong korporasyon sa Amerika na nagbibigay ng serbisyo sa kalusugan at sa pag-iintindi ng mata kundi ang mga optometrists lamang. Hindi po sila gumagamit ng korporasyon o trade name.

Senator Macapagal: Mayroon po kaya tayong makukuhang kopya ng wording ng batas doon sa Amerika para makita natin kung paano ia-apply ito dito sa Pilipinas nang hindi naman maging masyadong masalimuot ang anyo?

Senator Webb: Ito po iyang mga court rulings sa Amerika. Ito po ang kanilang ruling:

A corporation not having the capacity to practice optometry cannot do so indirectly by employing duly licensed optometrist for that would simply be an attempt to circumvent the intent of the law.

Ito po ang hinihingi ninyong halimbawa at ito na rin ang kasagutan mismo ng korte sa Amerika.

Senator Macapagal: Tungkol po roon sa sinasabi kanina na nire-regulate ng DOH ang operasyon ng mga hospital pero hindi naman nire-regulate nito ang operasyon ng optical firms, hindi kaya maaaring ilagay na rin ang optical firms sa ilalim ng regulasyon ng Department of Health o ng iba pang sangay o katawan ng pamahalaan? Hindi kaya puwedeng maging solusyon iyon?

Senator Webb: Sinagot ko po lamang iyan dahil itinanong ninyo. Pero hindi lamang iyan ang tinututulan ng batas na ito. Tinututulan din ng batas ang paggamit ng trade name o iyang tinatawag na "commercialism." Iyan pong binanggit ko ay isang halimbawa lamang. Ngunit kung ilalagay ninyo sila sa ilalim, halimbawa, ng Professional Regulation Commission, hindi po puwede. Unang-una, walang korporasyong tinatanganan ang Professional Regulation Commission. Pangalawa, naniniwala ako na ang orientation ay ibang-iba pag corporation at pag individual entity na.

Senator Macapagal: Kung hindi po maaari ang Professional Regulation Commission, maaaring ang Department of Health ang mag-regulate. Sapagkat ang mga ospital, bagamat may profit motive din ang mga ito, regulated naman ng Department of Health. Hindi naman kaya puwedeng magawa iyon sa optometry firms?

Senator Webb: Ang mabuti po ay i-underline muna natin. Iyong mga ospital ay hindi po profit-oriented. Mabuting ilagay natin on record iyon sapagkat magiging mali ang tuon natin kung aaminin natin na ang ospital ay profit-oriented. Hindi po itinatayo ang ospital para ito ay kumita. Itinatayo po ang ospital para gamutin ang mga may sakit.

Senator Macapagal: Siguro naman itong mga korporasyon natin na may ospital, kagaya ng Makati Medical Center, ay pinili

ang negosyong iyon dahil gustong maglingkod sa mamamayan. Ngunit hindi rin sila magtatayo para lamang malugi. Inaasahan din nilang tumubo o magkaroon ng debidendo. Hindi po ba ganoon din ang takbo ng mga ospital?

Senator Webb: Being an optometrist is a profession and not a business, kung kaya hindi puwedeng ihambing iyon sa ganoon. At pangalawa, kailangang simulan muna natin kung ano ang pagkakamali ng korporasyon.

Pag binasa po natin ang batas, makikita natin kaagad na bawal magtayo ng korporasyon. Hanggang hindi natin sinusugan ang batas na iyon ay lumalabag ang mga korporasyon sa pagtatayo ng tinatawag nating optometry shop to perform optometry service for our people with defective eyes. At iyan po ay dinala na sa korte na kung saan mayroon nang ruling ang Regional Trial Court. If I may give the Lady Senator the resume of that particular ruling—ang nagsasalita rito ay ang Regional Trial Court ng Branch IX, Cebu City:

After a careful study of the evidence adduced by the parties and taking into account the law on jurisprudence, the Court finds and do holds that the practice of defendant corporation of hiring optometrists to perform optometry services for its behalf is unlawful and illegal, being in contravention of the provisions of R. A. No. 1998, otherwise known as the Law on Optometry, including its purposes and intendments which are to raise the treatment of the human eye to a high professional level, for the protection of the health and safety of the public and to free the profession from all things of commercialism.

Ito po ang naging desisyon. Kaya lamang, nag-appeal sila. Pero dito pa lamang ay talo na kaagad ang pinag-uusapan nating possibility of a corporation engaging in optometry service.

Hindi po naman natin sila pinagbabawalang gumawa ng mga salamin. Tuloy ang kanilang pagsukat ng salamin at paggamit ng tamang kagamitan. Ang ipinagbabawal lamang natin ay iyong paggamit ng korporasyon. Puwede po namang magpatuloy sa kanilang operasyon ang korporasyong ating binabanggit. Ang hinihingi lamang nila ay gamitin iyong pangalan ng isa nilang tauhan. Hindi puwedeng gumamit ng korporasyon. Isang pangalan lamang po iyon. Para pong abugado iyan. Wala naman tayong nakikitang abugado na ang ginagamit ay korporasyon.

Senator Macapagal: Sa abogasya po, mayroon tayo. Kagaya, halimbawa, noong Angara Law Office, ang lalabas doon ay isang Atty. Vinluan. Pero ang alam ng tao ay kinuha nila ang Angara Law Office. Hindi po ba pareho na rin iyon?

Senator Webb: Ginoong Pangulo, hindi po korporasyon,

gaya ng inaakala ninyo, ang law office ng ating Senate President noong siya ay member pa ng Angara Law Office. Ito po ay partnership; hindi korporasyon.

Senator Macapagal: Pero nakasaad dito na hindi lamang korporasyon ang sakop ng prohibisyon. Ang nakalagay dito ay "No person, natural or juridical, shall hire..."

Kaya iyong sinasabing partnership ay parang juridical person na rin, hindi po ba?

Senator Webb: Ang dapat ay basahin nating lahat. "No person, natural or juridical, other than an optometrist in good standing or a partnership composed solely of optometrists, shall hire, employ, join with and otherwise use the services of an optometrist for the purpose of practicing optometry ..." Mahaba po ito.

Ang partnership po ay may practice. In short, puwede ang partnership. Halimbawa, kung tatlo silang optometrists. puwede-silang magsama-sama upang gamitin iyong pangalan nila. Ngunit ang pinag-uusapan po natin dito ay korporasyon. Alam naman natin kung anong korporasyon ito—Acebedo. Hindi naman ito optometrist. Nagpa-practice ito at may sariling shop. He is not even an optometrist. Iyan po ay bawal talaga sa ilalim ng ating batas.

Senator Macapagal: Kaya ang sinasabi ng Kagalangalang na Senador, nasa batas na ang prohibisyong ito?

Senator Webb: Opo, nasa batas na iyan. Kaya naman nagkaroon ng ruling ang RTC ng Cebu City.

Senator Macapagal: Bakit pa po natin inuulit kung mayroon nang batas?

Senator Webb: Ano po iyon?

Senator Macapagal: Bakit pa natin inilalagay sa bagong batas kung mayroon nang batas na umiiral?

Senator Webb: Isinama na rin natin ito para lubos na maintindihan. Sapagkat kung hihintayin natin ang resulta mula sa korte, matatagalan pa bago ma-resolve ang isang kaso. Maaaring abutin ito ng sampung taon. And this is unfair to those who went out of their way to practice. They have practiced for the purpose of not making money, but primarily to give optometry service to our people with defective eyes.

Senator Macapagal: Pero kung nasa batas na at inuulit pang muli sa bagong batas, hindi iyon makaka-resolve sa court case. Ang kailangan lamang ay isang batas, at naroroon na iyon.

Ang paghaharap muli ng isang bagong batas ay hindi makakatulong sa pagre-resolve ng kaso dahil mayroon nang batas. Kung labag sa batas ay hindi labag sa unang batas. Kung hindi labag sa unang batas, kung pareho iyong pangalawang batas, hindi rin labag sa pangalawang batas.

Senator Webb: Marahil ay nalalaman ng magiting na Senadora na kapag tayo ay gumawa ng batas, ito ay maraming probisyon. And this is just one of the provisions that we maintained. The rest of the provisions are as important as that provision that we are now discussing.

Senator Macapagal: Ano po iyong mga bagong probisyon dito sa panukalang-batas na wala roon sa bagong batas?

Senator Webb: Ang ipinagkaiba nito ay iyong Optometry Law of 1957. It purely defines acts constituting the practice of optometry. The bill provides that qualified optometrists—ito po ang proposal sa ilalim ng batas na ito—that qualified optometrists will use specific DPAs (diagnostic pharmaceutical agents). This advancement is in the practice of optometry and is now being enjoyed by 30 countries including the United States, the UK, even in Hong Kong.

Doon po sa dating batas, iyong old law, optometry covers a course which is fixed at four years. Dito po ay binibigyan natin ng pagkakataong i-review ito at binibigyan natin ng pahintulot ang Commission on Higher Education, of course, in consultation with the Board, to decide kung ito ay gagawing six years or iretreaten ng four or gagawing five years. Iyon po ay open sa batas na ito.

Iyong third significant difference in our proposal is to integrate optometrists so that, collectively as one group, they can have a direct hand in the advancement of their profession. Ito ang mga pagkakaiba doon.

At mayroon pong mga naglalabas ng mga maling impormasyon katulad ng pagbabawalan na daw iyong mga ibang health workers na makatulong sa propesyong ito. Hindi po sila pinagbabawalan. Wala pong sinasabi sa batas na ito na ipinagbabawal silang tumulong.

Senator Macapagal: Maraming salamat po. Hanggang dito na lamang ang ating mga tanong dahil marami pang gustong magtanong. Marami pang mga panukalang batas na nakalinya ngunit ipagpaumanhin ng Pangulo ng Senado na muling makapagtanong pagkatapos mapag-aralan ang batas sa ibang bansa.

Senator Webb: Opo, ako ay sang-ayon sa suhestiyon ni Senator Macapagal.

Senator Romulo: Mr. President.

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

SUSPENSION OF CONSIDERATION OF S. NO. 1998

Senator Romulo: Mr. President, in the meantime, 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: 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 11:32 a.m.

RESUMPTION OF THE SESSION

At 11:39 a.m., the session was resumed.

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

BILL ON SECOND READING Senate Bill No. 1311—High-Value Crops (Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 1311 and House Bill No. 9288 as reported out under Committee Report Nos. 311 and 419. This is the High-Value Crops bill.

We are in the period of individual amendments, Mr. President. I ask that the distinguished Lady from Pampanga, Pangasinan and Negros Occidental, Senator Macapagal, be recognized.

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

Senator Macapagal: Mr. President, we have reconsidered the approval of this bill on Second Reading, and we are back to the period of individual amendments.

Senator Romulo: That is right, Mr. President.