

RECORD OF THE SENATE

MONDAY, MAY 27, 1991

OPENING OF THE SESSION

At 3:23 p.m., the Honorable Jovito R. Salonga, President of the Senate, called the session to order.

NATIONAL ANTHEM

The President. Binubuksan ang pulong ng Senado.

Aawitin ng ating Senate Choir ang "Pambansang Awit" at pagkatapos ay pangungunahan tayo sa panalangin ni Senador Aquilino Q. Pimentel, Jr.

Everybody rose for the singing of the Philippine National Anthem and for the opening prayer.

PRAYER

Senator Pimentel.

As we enter the penultimate week of the closing of the 4th session of this Congress, we give thanks to You, O Lord, our God for the manifold blessings You have showered upon our country and people.

Despite the devastating typhoons that have lashed at our shores and the destructive earthquakes that have shaken the land, the Government still stands, the center holds and the people patiently toil to start their lives anew.

Despite the incendiary coups d'etat that have been attempted and the internecine insurgency that continues its violent course, the Government still stands, the center holds and the people cling to their hopes that democratic institutions, for all their flaws, do work.

Despite the egregious economic decisions on the issue of the foreign debt, the import liberalization policies, the oil and other price increases that have made life miserable for our people, the Government still stands, the center continues to hold and the people prayerfully await their emancipation from the bondage of poverty.

And so, with Your loving hand guiding us; Your

*Arrived after the roll call.

forgiving heart blessing us; Your eternal vision showing us the way, the truth and the life, we are optimistic that like the Israelites of old, whom You have brought out of the land of bondage; who have returned to the promised land from the Diaspora, and who have emerged from the Holocaust stronger than ever before, we will overcome, we will prevail, we will preserve this Republic as one Nation under God, peaceful and indivisible--with liberty and justice for all.

Amen.

ROLL CALL

The President. Babasahin ng Kalihim ang talaan ng mga Senador.

The Secretary.

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| Senator Heherson T. Alvarez | Present* |
| Senator Edgardo J. Angara | Present |
| Senator Agapito A. Aquino | Present |
| Senator Juan Ponce Enrile | Present |
| Senator Joseph Ejercito Estrada | Present |
| Senator Neptali A. Gonzales | Present |
| Senator Teofisto T. Guingona, Jr. | Present |
| Senator Ernesto F. Herrera | Present |
| Senator Sotero H. Laurel | Present |
| Senator Jose D. Lina, Jr. | Present* |
| Senator Ernesto M. Maceda | Present |
| Senator Orlando S. Mercado | Present |
| Senator John H. Osmefia | Present |
| Senator Vicente T. Paterno | Absent |
| Senator Aquilino Q. Pimentel, Jr. | Present |
| Senator Santanina T. Rasul | Present |
| Senator Alberto G. Romulo | Present |
| Senator Rene A. V. Saguisag | Present |
| Senator Leticia Ramos Shahani | Absent |
| Senator Mamintal Abdul J. Tamano | Present |
| Senator Wigberto E. Tañada | Present |
| Senator Victor S. Ziga | Present |
| The President | Present |

The President. Labinsiyam na Senador ang dumalo sa ating pagpupulong; mayroon tayong korum.

THE JOURNAL

Senator Guingona. Mr. President, I move that we

It was 4:35 p.m.

RESUMPTION OF THE SESSION

At 5:30 p.m., the session was resumed.

The President. The session is resumed.

**SUSPENSION OF CONSIDERATION
OF HOUSE BILL NO. 32939**

Senator Guingona. Mr. President, I move that we suspend consideration of House Bill No. 32939.

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

**MOTION OF SENATOR GUINGONA
(Additional Conference Committee Members)**

Senator Guingona. Mr. President, I move that the following Senators be named Senate Conferees on House Bill No. 8434, entitled:

**AN ACT TO AMEND SECTION FOURTEEN OF
BATAS PAMBANSA BILANG 129,
OTHERWISE KNOWN AS THE JUDICIARY
REORGANIZATION ACT OF 1981**

namely: Senators Tanada, Gonzales, Saguisag, Angara,
and Enrile.

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

SPECIAL ORDERS

Senator Guingona. Mr. President, I move that Committee Report No. 1320 on Senate Bill No. 1435, entitled:

**AN ACT TO MAXIMIZE THE CONTRIBUTION
OF THE ELDERLY TO NATIONBUILDING,
GRANT BENEFITS AND SPECIAL
PRIVILEGES, AND FOR OTHER PUR-
POSES,**

be transferred to the Calendar for Special Orders.

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

**CONFERENCE COMMITTEE REPORT ON SENATE
BILL NO. 733/HOUSE BILL NO. 22752
(Crime of Plunder)**

Senator Guingona. Mr. President, I move that we consider the Conference Committee Report on the disagreeing provisions of Senate Bill No. 733, entitled:

**AN ACT DEFINING AND PENALIZING THE
CRIME OF PLUNDER,**

and House Bill No. 22752, entitled

**AN ACT DEFINING AND PENALIZING THE
CRIME OF PLUNDER.**

be considered.

I ask that we recognize Senator Tañada.

The President. Senator Tañada is recognized.

Senator Tañada. Thank you, Mr. President.

I have the honor to submit to this Body the Conference Committee Report of the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 733, entitled

**AN ACT DEFINING AND PENALIZING THE
CRIME OF PLUNDER,**

and House Bill No. 22752, entitled

**AN ACT DEFINING AND PENALIZING THE
CRIME OF PLUNDER.**

The Members of the Bicameral Conference Committee, Mr. President, had agreed to recommend the approval of Senate Bill No. 733 in consolidation with House Bill No. 22752 in accordance with the version attached to this Conference Committee Report.

The significant changes consist only of the increase of the aggregate amount or total value of the supposed ill-

gotten wealth from P50 million to P75 million. Originally, the Senate version was fixed at the amount of P50 million while that of the House of Representatives was fixed at P100 million. We ended up with this compromise amount of P75 million.

The other change was the deletion of the paragraph which would have placed on the accused the burden of proof to prove his innocence once a *prima facie* case has already been established against them, because of the concern that this provision could invite a constitutional challenge on the matter.

These are the more significant changes, Mr. President. So, may I now ask this Body to approve this Conference Committee Report.

The President. Senator Saguisag is recognized.

Senator Saguisag. Thank you, Mr. President.

I am a member of the Conference Committee. Unfortunately, last May 7, I also had to be present in a conflicting equally important Conference Committee meeting in relation to the Local Government Code.

I am just wondering, Mr. President, why the reversal of the presumption of innocence, which to me represented a very key provision in the bill which I coauthored, was deleted. Ano ho ang nangyari doon?

Senator Tañada. Ang nangyari po doon, iyong pagkabahala na kung mananatili iyong paragraph na iyon, lalabas na iyong burden of proof would be on the accused to prove their innocence. Dahil doon, naisip na para hindi na mag-imbita pa ng anumang kaso sa husgado hinggil sa constitutionality nitong probisyong ito, napagkaisahan na alisin na lang iyan, dahil alinsunod naman sa batas, maliwanag na maliwanag na ang burden of proof would be on the prosecution at all times, to prove the guilt of the accused.

Senator Saguisag. I am concerned, because one of the main features of Senate Bill No. 1532, which we hope will be approved by the Body any day now, also contains precisely--for lack of a better term--what we may call the Laurel-Saguisag amendment. We borrowed from the Sin-

gaporean law, precisely, the reversal of the presumption of innocence. I would have thought, that if proof of the kind that we see here is available, then maybe it can be analogized to the possession of stolen goods, of contrabands. Kaya, I am anticipating that in the Conference Committee on the new measure, maybe the same point again may be raised. I hope the Body will review our position on it.

So, I have really no objection to the Conference Committee Report. I am just trying to anticipate and prepare for the day when again that issue will arise in connection with the new measure.

Maraming salamat po.

**APPROVAL OF CONFERENCE COMMITTEE
REPORT ON SENATE BILL NO. 733/
HOUSE BILL NO. 22752**

The President. Is there any objection to the approval of the Conference Committee Report on the Anti-Plunder Act? [*Silence*] There being none, the motion is approved.

The following is the full text of the Conference Committee Report:

The Conference Committee, on the disagreeing provisions of Senate Bill No. 733, entitled

**AN ACT DEFINING AND PENALIZING THE
CRIME OF PLUNDER,**

and House Bill No. 22752, entitled

**AN ACT DEFINING AND PENALIZING THE
CRIME OF PLUNDER,**

has met and, after full and free conference, has agreed to recommend, as it hereby recommends, to the Senate and House of Representatives that Senate Bill No. 733, in consolidation with House Bill No. 22752, be approved in accordance with the attached version, as reconciled and approved by the Conferees.

Approved,

**CONFEREES ON THE PART OF THE
HOUSE OF REPRESENTATIVES**

(Sgd.) REP. PABLO P. GARCIA

(Sgd.) REP. LORNA VERANO-YAP

(Sgd.) REP. NARCISO D. MONFORT

(Sgd.) REP. MIGUEL L. ROMERO

(Sgd.) REP. MARTIN B. ISIDRO

(Sgd.) REP. ANTONIO M. ABAYA

CONFEREES ON THE PART OF THE SENATE

(Sgd.) SEN. WIGBERTO E. TALAADA

(Sgd.) SEN. NEPTALIA A. GONZALES

(Sgd.) SEN. JOSE D. LINA, JR.

(Sgd.) SEN. RENE A.V. SAGUISAG

(Sgd.) SEN. JUAN PONCE ENRILE

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Definition of Terms. -- As used in this Act, the term--

(a) "**Public Officer**" means any person holding any public office in the Government of the Republic of the Philippines by virtue of an appointment, election or contract.

(b) "**Government**" includes the National Government, and any of its subdivisions, agencies or instrumentalities, including government-owned or controlled corporations and their subsidiaries.

(c) "**Person**" includes any natural or juridical person, unless the context indicates otherwise.

(d) "**Ill-gotten wealth**" means any asset, property, business enterprise or material possession of any person within the purview of Section Two (2) hereof, acquired

by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes:

[1] Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;

[2] By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;

[3] By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities or government-owned or controlled corporations and their subsidiaries;

[4] By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;

[5] By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or

[6] By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

SEC. 2. Definition of the Crime of Plunder; Penalties. -- Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1(d) hereof, in the aggregate amount or total value of at least seventy-five million pesos (P75,000,000), shall be guilty of the crime of plunder and shall be punished by life imprisonment with perpetual absolute disqualification from holding any pub-

lic office. Any person who participated with the said public officer in the commission of plunder shall likewise be punished. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State.

SEC. 3. Competent Court. -- Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan.

SEC. 4. Rule of Evidence. -- For purposes of establishing the crime of plunder, it shall not be necessary to prove each and every criminal act done by the accused in furtherance of the scheme or conspiracy to amass, accumulate or acquire ill-gotten wealth, it being sufficient to establish beyond reasonable doubt a pattern of overt or criminal acts indicative of the overall unlawful scheme or conspiracy.

SEC. 5. Suspension and Loss of Benefits. -- Any public officer against whom any criminal prosecution under a valid information under this Act in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and other benefits which he failed to receive during suspension, unless in the meantime, administrative proceedings have been filed against him.

SEC. 6. Prescription of Crimes. -- The crime punishable under this Act shall prescribe in twenty (20) years. However, the right of the State to recover properties unlawfully acquired by public officers from them or from their nominees or transferees shall not be barred by prescription, laches, or estoppel.

SEC. 7. Separability of Provisions. -- If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the remaining provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

SEC. 8. Scope. -- This Act shall not apply to or affect pending prosecutions or proceedings, or those which may be instituted under Executive Order No. 1, issued and promulgated on February 28, 1986.

SEC. 9. Effectivity. -- This Act shall take effect after fifteen (15) days from its publication in the Official Gazette and in a newspaper of general circulation.

BILL ON SECOND READING

House Bill No. 1777--Election Synchronization (Continuation)

Senator Guingona. Mr. President, I move that we resume consideration of House Bill No. 1777 as reported out under Committee Report No. 1295.

The President. Resumption of consideration of House Bill No. 1777 is now in order.

Senator Guingona. Mr. President, we are still in the period of interpellations, I ask that we recognize Senator Gonzales.

The President. Senator Gonzales is recognized.

Senator Gonzales. We are ready, Mr. President, for the interpellations.

The Majority Floor Leader already made his interpellations.

Senator Laurel. Mr. President.

The President. Senator Laurel is recognized.

Senator Laurel. Mr. President, just a few fundamental questions that I would like to ask.

Mr. President, I am a bit puzzled relative to this provision in House Bill No. 1777 to the effect that all incumbent provincial, city and municipal officials shall hold over beyond the 30th day of June 1992 and serve until their successors shall have been elected and qualified.

I am puzzled, because this is definitely in violation