

RECORD OF THE SENATE

THURSDAY, FEBRUARY 14, 1991

ROLL CALL

OPENING OF THE SESSION

At 3:15 p.m., the Honorable Ernesto M. Maceda, acting as Presiding Officer, called the session to order.

The Presiding Officer [Senator Maceda]. The Valentine's Day session of the Philippine Senate is hereby called to order. Senator Alvarez will lead us in the opening prayer.

Everybody remained standing for the opening prayer.

PRAYER

Senator Alvarez.

Panginoon, kami ay nananawagan sa inyo upang ipaalala sa amin na kung minsan, higit na makapangyarihan ang puso kaysa isip.

Lalo na sa kasalukuyang panahong nahaharap ang Bayan sa malalalim na suliranin at matitinding krisis--krisis sa ekonomiya, krisis sa enerhiya, krisis na dulot ng patuloy na digmaan sa Gitnang Silangan, pagmamalabis sa kalikasan, at ngayon, sa napipintong aklatan ng mga manggagawa bunga ng matinding kahirapan.

Sa gitna ng mga suliranin at krisis na ito, Panginoon, kaming bahagi ng namumuno sa Bayang ito, ay sumasamo sa Inyo na bigyan kami ng sapat na karunungan sa araw na ito at pahintulutang mamayani ang tunay na pagmamalasakit at pagmamahalan sa isa't isa.

Tulutan po Ninyong mangibabaw ang aming mga puso, at maiwaksi ang ano mang makasariling kaisipan, alang-alang sa kapakanan at kagalingan ng nakararaming mahihirap.

Pakinggan sana Ninyo, Panginoong aming Manunubos na bukal ng wagas na pag-ibig, ang aming dalangin.

Siya Nawa.

*Arrived after the roll call

**On official mission

The Presiding Officer [Senator Maceda]. The Secretary will call the roll.

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present*
Senator Agapito A. Aquino	Present*
Senator Juan Ponce Enrile	Present*
Senator Joseph Ejercito Estrada	**
Senator Neptali A. Gonzales	Present*
Senator Teofisto T. Guingona, Jr	Present*
Senator Ernesto F. Herrera	Present*
Senator Sotero H. Laurel	Absent
Senator Jose D. Lina, Jr	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator John H. Osmeña	Present
Senator Vicente T. Paterno	Present
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	Present
Senator Mamintal Abdul J. Tamano	Present
Senator Wigberto E. Tafiada	Present
Senator Victor S. Ziga	Present
The President	**

The Presiding Officer [Senator Maceda]. With 17 Senators present in the Senate, there is a quorum.

THE JOURNAL

Senator Guingona. Mr. President, I move that we dispense with the reading of the *Journal* of yesterday's session and consider the same as approved.

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

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1743, entitled

orable Wigberto E. Tañada presiding.

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

BILL ON SECOND READING
Senate Bill No. 209 - Komisyon ng Wikang Pambansa
(Continuation)

Senator Guingona. Mr. President, I move that we resume consideration of Senate Bill No. 209 as reported out under Committee Report No. 329.

We are in the period of individual amendments.

I ask that we recognize Senator Mercado.

The Presiding Officer [Senator Tañada]. Senator Mercado is recognized.

Senator Mercado. Mr. President, in compliance with the request of our Colleagues that a clean copy of the bill be made available to them, we have the same, dated February 5, 1991.

I would like to make a motion that we adopt this copy as our working draft.

The Presiding Officer [Senator Tañada]. Will the Secretary see to it that the copies are distributed.

Senator Mercado. Can I ask for a short suspension of the session, Mr. President?

SUSPENSION OF THE SESSION

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

It was 5:46 p.m.

RESUMPTION OF THE SESSION

At 5:48 p.m., the session was resumed.

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

Senator Saguisag. Mr. President.

The Presiding Officer [Senator Tañada]. Senator Saguisag is recognized.

Senator Saguisag. Thank you, Mr. President.

On page 2, lines 20 to 22, where it says: "The Chairman and Associate Commissioners shall be appointed by the President with the consent of the Commission on Appointments."

On page 3, lines 9 to 11, it says: "The Chairman and the two (2) Associate Commissioners shall have the same rank, privileges, salary, allowances and other emoluments of a regular bureau director."

I wonder, Mr. President, in the face of the rulings of the Supreme Court in the Mison case, and also in the Bautista case, involving the Commission on Human Rights, whether it is permissible for us to require even an Associate Commissioner to have to go through the Commission on Appointments. It is really a legal, technical point. Assuming that I have not misunderstood the thrust of those rulings, we have to show some respect for settled jurisprudence.

I do not know whether I would like to move now that such a requirement be removed or some technical study be made, whether even higher officials do not have to go through the Commission on Appointments.

Kung ang Chairman po ay isang Bureau Director, at mas mababa pa sa Bureau Director ang Associate Commissioners, in a sense, do we feel bound at all by the Supreme Court pronouncements? Or is this Chamber insulated from authoritative doctrinal pronouncements of the Supreme Court?

I am not sure whether enough technical studies have been made. I do not mean to be pejorative--but we know that the distinguished Sponsor is not a lawyer--maybe, his staff may have advised him that this is all right? I really have my doubts.

Senator Mercado. Mr. President, in the original proposal of this Representation, the requirement that the Commissioner and the Associate Commissioners' ap-

pointment go through the Commission on Appointment was not included. The inclusion is a product of an amendment that was proposed on the Floor during interpellation. If the Body would reconsider the same, in view of the information that we have obtained from our legal luminary, then I would accede to the same, as long as there are no serious objections.

Senator Saguisag. I am not really insisting, Mr. President; I do not want to interfere with the policy choice of this Body. But I would really be concerned if, again, the Supreme Court will teach us a lesson on how to apply the Constitution. Maybe, those behind the amendment may have felt sure that this is something that they can defend. I take the contrary view. Kung mapapaturunan po na kaya namang ipagtanggol iyon, ayaw ko pong...

In other words, I am not going to the prudence or wisdom of the amendment that was accepted by the Chairman or the Body. I do not know whether there is such a thing as a conditional approval on Second Reading. Pero kung hindi naman po tayo nagmamadali, pag-aralan po natin ito at nang hindi tayo sunud-sunod na tinuturuan ng Korte Suprema kung ano ang ibig sabihin ng Saligang-Batas?

Ano ang ibig sabihin ng Mison ruling? Ano ang ibig sabihin ng Bautista ruling? Sapagkat kung atin pong pag-aralan iyong Bautista case, the Commission on Human Rights is even treated with more attention and with more respect in the Constitution. We are aware that this Language Commission was also mentioned, but, relatively, only in passing. Para pong mas malaki ang importance doon sa Commission on Human Rights and yet, Chairperson Mary Concepcion Bautista prevailed. But there may have been some reasons that may not be applicable here.

So, to me, I will not even move to delete this. If the Legal Staff of the Senate will say that it is all right, I will not move for its deletion. But if we are advised by our Legal Staff in the Senate that their understanding of the ruling is that this is going to be knocked out as unconstitutional, then we would want to save this Body from embarrassment.

Senator Lina. Mr. President.

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

Senator Lina. Mr. President, I share the views expressed by Senator Saguisag. This issue has been brought up on several occasions when we heard in the Committee on Constitutional Amendments similar proposals. The result of our study shows that except for those offices and officers that are specifically mentioned in the Constitution, no other officers are required to be submitted to the Commission on Appointments for confirmation. That is the impact of the Mison ruling, Mr. President. Maybe, in the 1973 Constitution and the 1935 Constitution, it was construed that even Bureau Directors can be submitted to the Commission on Appointments up to a certain level. But, the present Constitution is very specific as to who are the officers to be submitted to the Commission on Appointments. Kaya, ito po ay medyo ako sumasang-ayon sa "tinutumbok" na pananaw ni Senator Saguisag.

Senator Saguisag. Ang akin pong pagkakatanda doon sa debate sa Constitutional Commission, the Commission specifically identified Bureau Directors as representing a level that was too low to merit review by the Commission on Appointments. Kaya, kung wala po namang mahigpit na tumututol, kung sino man ang nagpanukala noon, I would like now, emboldened by the support of the Chairman of--the Constitutional Amendments Committee--and there is really no opposition as I understand it, from the distinguished Sponsor--to formally move that that requirement be deleted.

Senator Mercado. Enlightened as I am now, by the wisdom of the proposition, I accept, Mr. President.

The Presiding Officer [Senator Tañada]. So, the principal Sponsor has accepted the amendment. Is there any opposition from the Floor? [Silence] There being none, the same is approved.

Senator Saguisag. The other points I have in mind refer to style. Sana po ay maripaso natin ito, katulad nitong page 7, line 7. Small things like, I suppose, "publication" should be pluralized.

Senator Mercado. Mr. President, inasmuch as this is a clean copy, maybe, we would welcome the ...

Senator Saguisag. May we move that it be so corrected. If I understood it correctly, it should be in the plural form.

Senator Mercado. Yes, Mr. President, we agree. That would be line 7 on page 7.

The Presiding Officer [Senator Tañada]. Is there any objection? [Silence] There being none, the same is approved.

Senator Saguisag. Finally, if we may step back to page 4, I do not really know what to suggest in relation to line 5. Subject to correction, my own impression is that when we say "among others," we refer to people. I do not know whether it should be "among other things" here or "among other powers" but we leave it to the stylist. I can live with this, in fact; but, as long as we are polishing, then, maybe, we can have the change, unless today, it is acceptable to use "among others" referring to inanimate things. But as I have said, all the while, when I hear "among others," I expect people to be identified.

Senator Mercado. We agree, Mr. President. Maybe, there should be a better way to...

Senator Saguisag. Anyway, Mr. President, it is just a matter of style. I am just expressing that concern. I am not ready to propose anything myself, because "among other things" sounds not too parliamentary.

Salamat po.

Senator Mercado. We can say: "IT SHALL BE THE DUTY OF THE COMMISSION" or "THE DUTIES OF THE COMMISSION SHALL INCLUDE BUT NOT BE LIMITED TO".

The Presiding Officer [Senator Tañada]. All right. Is there any objection? [Silence] Hearing none, the same is approved.

Any other amendments? The Majority Floor Leader is recognized.

Senator Guingona. Mr. President, if there are no other amendments, I move that we close the period of amendments.

The Presiding Officer [Senator Tañada]. Is there any objection? [Silence] Hearing none, the same is approved.

APPROVAL OF SENATE BILL NO. 209
ON SECOND READING

Senator Guingona. Mr. President, I move that we vote on Senate Bill No. 209, as amended, on Second Reading.

The Presiding Officer [Senator Tañada]. We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill, as amended, will please say Aye. [Several Senators: Aye] As many as are against will please say Nay. [Silence] Senate Bill No: 209 is approved on Second Reading.

BILL ON SECOND READING
House Bill No. 26648--Franchise to Cebu Air, Inc.
(Continuation)

Senator Guingona. Mr. President, I move that we resume consideration of Senate Bill No. 26648, as reported out under Committee Report No. 1021. We are in the period of interpellations. I ask that we recognize Senator Osmeña.

The Presiding Officer [Senator Tañada]. Senator Osmeña is recognized.

Senator Osmeña. Mr. President, the status of this bill is that, the last time I was sponsoring it, we were in the period of interpellations. We would have closed the period of interpellations had it not been for the fact that we had a caucus among the Members of the Senate. I remember that the consideration was suspended at five o'clock.

So, if there are no other questions, Mr. President, I