

TUESDAY, JANUARY 24, 2012

OPENING OF THE SESSION

At 9:17 p.m., the Senate President, Hon. Juan Ponce Enrile, called the session to order.

The President. The 46th session of the Senate in the Second Regular Session of the Fifteenth Congress is hereby called to order.

Let us all stand for the opening prayer to be led by the distinguished Senator from Aurora, Sen. Edgardo J. Angara.

Everybody rose for the prayer.

PRAYER

Senator Angara.

Thank you, Mr. President.

Almighty Father, we come to You, our Creator and Redeemer, in solemn prayer--awed by Your power and humbled by Your benevolence.

Cleanse us of unrighteousness that leads to misconduct. Purge us of enmity that abets discord. Unburden us of troubles that cloud sound judgment.

Instead, sow the seeds of understanding among us, in our homes, in the hearts and minds of our public servants and the people, between the religions and their flock, and among our brethren in media and their public.

Help us realize, Lord, that there is nothing we can do alone that we cannot do better together; that there is nothing our country cannot achieve with a people working for the common good because inspired by a national purpose.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, *reading:*

Senator Edgardo J. Angara.....Present
Senator Joker P. Arroyo.....Present*
Senator Alan Peter *Compañero* S. Cayetano... **
Senator Pia S. Cayetano.....Present
Senator Miriam Defensor Santiago.....Present*
Senator Franklin M. Drilon.....Present*
Senator Jinggoy Ejercito Estrada.....Present
Senator Francis Joseph G. Escudero.....Present
Senator Teofisto "TG" L. Guingona III.....Present*
Senator Gregorio B. Honasan.....Present
Senator Panfilo M. Lacson.....Present
Senator Manuel "Lito" M. Lapid.....Present
Senator Loren Legarda.....Absent
Senator Ferdinand R. Marcos Jr..... **
Senator Sergio R. Osmeña III.....Present*
Senator Francis N. Pangilinan.....Present*
Senator Aquilino L. Pimentel III.....Present
Senator Ralph G. Recto.....Absent
Senator Ramon Bong Revilla Jr.....Present
Senator Vicente C. Sotto III.....Present
Senator Antonio "Sonny" F. Trillanes IV....Present

Senator Manny Villar.....Present
The President.....Present

The President. With 13 senators present in the Chamber, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Sotto. Thank you. Mr. President, I move that we dispense with the reading of

*Arrived after roll call
**On official mission

the *Journal* of the 45th session, January 17, 2012, and consider it approved.

At this juncture, Senate President Juan Ponce Enrile relinquished the Chair to Senate President Pro Tempore Jinggoy Ejercito Estrada.

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

Senator Sotto. Mr. President, I move that we proceed to the Reference of Business.

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

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Acting Secretary [Atty. Bellen]. Senate Bill No. 3099, entitled
AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED

Introduced by Senator Drilon

The President Pro Tempore. Referred to the Committee on Justice and Human Rights

The Acting Secretary [Atty. Bellen]. Senate Bill No. 3100, entitled
AN ACT ESTABLISHING A POST TRAUMATIC STRESS DISORDER AWARENESS AND
EDUCATION PROGRAM

Introduced by Senator Defensor Santiago

The President Pro Tempore. Referred to the Committee on Health and Demography

The Acting Secretary [Atty. Bellen]. Senate Bill No. 3101, entitled
AN ACT PROMOTING THE PERSISTENT QUEST FOR KNOWLEDGE AND INCREASED
EDUCATION AMONG THE YOUTH

Introduced by Senator Defensor Santiago

The President Pro Tempore. Referred to the Committees on Justice and Human Rights; and Youth, Women and Family Relations

The Acting Secretary [Atty. Bellen]. Senate Bill No. 3102, entitled
AN ACT PENALIZING THE PARENTS OR GUARDIANS FOR TORTS OR CRIMES COMMITTED
BY THEIR MINOR CHILDREN OR WARDS

Introduced by Senator Defensor Santiago

The President Pro Tempore. Referred to the Committees on Justice and Human Rights; and Youth, Women and Family Relations

RESOLUTIONS

The Acting Secretary [Atty. Bellen]. Senate Joint Resolution No. 15, entitled

RESOLUTION URGING THE MEMBERS OF CONGRESS OF THE UNITED STATES OF AMERICA
TO PASS U.S. SENATE BILL NO. 1244 AND U.S. HOUSE BILL NO. 2387
OTHERWISE KNOWN AS THE SAVE OUR INDUSTRIES ACT

Introduced by Senator Enrile

The President Pro Tempore. Referred to the Committee on Foreign Relations

The Acting Secretary [Atty. Bellen]. Proposed Senate Resolution No. 681,
entitled

RESOLUTION CONGRATULATING AND COMMENDING FILIPINO PHOTOGRAPHER GEORGE
TAPAN FOR BEING DECLARED WINNER IN THE "PLACES" CATEGORY OF THE
2011 NATIONAL GEOGRAPHIC PHOTOGRAPHY CONTEST FOR HIS ENTRY INTO THE
GREEN ZONE

Introduced by Senator Lapid

The President Pro Tempore. Referred to the Committee on Rules

The Acting Secretary [Atty. Bellen]. Proposed Senate Resolution No. 682,
entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ENVIRONMENT AND NATURAL
RESOURCES AND COMMITTEE ON CLIMATE CHANGE TO LOOK INTO THE
NECESSITY OF INSTITUTING A SYSTEM OF MANDATORY ENVIRONMENTAL
INSURANCE COVERAGE IN LIGHT OF THE ENVIRONMENTAL DAMAGES GENERATED
BY COMMERCIAL ACTIVITIES AND WORSENER BY THE IMPACT OF CLIMATE
CHANGE

Introduced by Senator Legarda

The President Pro Tempore. Referred to the Committees on Environment and
Natural Resources; and Climate Change

The Acting Secretary [Atty. Bellen]. Proposed Senate Resolution No. 683,
entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN
AID OF LEGISLATION, ON THE PRACTICE OF FEEDING WHALE SHARKS BY
LOCAL TOURISM INDUSTRIES, AND ITS IMPACT ON THE ANIMAL'S NATURAL
WAY OF LIFE

Introduced by Senator Defensor Santiago

The President Pro Tempore. Referred to the Committees on Environment and
Natural Resources; and Tourism

The Acting Secretary [Atty. Bellen]. Proposed Senate Resolution No. 684,
entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN
AID OF LEGISLATION, ON THE NEED TO CREATE MEASURES THAT WILL
PROMOTE A "ZERO TOURISM WASTE" POLICY

Introduced by Senator Defensor Santiago

The President Pro Tempore. Referred to the Committees on Environment and Natural Resources; and Tourism

The Acting Secretary [Atty. Bellen]. Proposed Senate Resolution No. 685, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ESSENTIAL BENEFITS OF URBAN AGRICULTURE AS A VIABLE SOLUTION TO THE LOOMING FOOD SHORTAGE

Introduced by Senator Defensor Santiago

The President Pro Tempore. Referred to the Committee on Agriculture and Food

COMMITTEE REPORT

The Acting Secretary [Atty. Bellen]. Committee Report No. 97, prepared and submitted jointly by the Committees on Trade and Commerce; Economic Affairs; and Finance, on Senate Bill No. 3098, with Senators Enrile, Trillanes IV, Recto, Osmeña III, Defensor Santiago and Villar as authors thereof, entitled

AN ACT PENALIZING ANTI-COMPETITIVE CONDUCT, ABUSE OF DOMINANCE, AND ANTI-COMPETITIVE MERGERS, ESTABLISHING FOR THE PURPOSE AN OFFICE FOR COMPETITION UNDER THE DEPARTMENT OF JUSTICE, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

recommending its approval in substitution of Senate Bill Nos. 1, 123, 175, and 1838, taking into consideration Proposed Senate Resolution No. 123.

Sponsor: Senator Villar

The President Pro Tempore. To the Calendar for Ordinary Business

The Majority Leader is recognized.

Senator Sotto. Mr. President, may we suspend the session for a few minutes. We are awaiting documents from the Committee on Science and Technology.

The President Pro Tempore. Before that, Sen. Pia Cayetano is recognized.

PARLIAMENTARY INQUIRY OF SENATOR CAYETANO(P) (On the Resumption of RH Bill)

Senator Cayetano (P). Mr. President, I would just like to direct my inquiry to the Majority Leader. As a parliamentary inquiry, we would like to ask for his guidance and information on the resumption of the RH bill. We have been ready and we understand... We have actually spoken, off the record, but I just like to put on record that we are ready and we would like to know when the other senators will be ready.

Senator Sotto. Well, we will do our best to inquire also from the interpellators, Mr. President, because as of now, the parliamentary status is that we are in the period of interpellations. Pending interpellations and the reserved continuing interpellations are Sen. Loren Legarda, who is still out of the country, Senator Trillanes IV, Senator Pimentel III, and a continuing interpellation by Senator Enrile, the Senate President. I forgot one or two more. I know for a fact that there are still five to six who are in the list. But I have talked about it. Well, I checked on them but they were not ready last week. I do not know if they will be ready this week. We will try to shepherd the interpellators so that they can probably prepare for next week.

Senator Cayetano (P). Thank you. And, Mr. President, I just like to, well, put on record my concern because we have already limited our session days to twice a week and so I appeal to our colleagues that we schedule the pending measures whether RH or the others because we owe it to the people to continue our legislative work. Thank you.

Senator Sotto. Thank you. Yes, Mr. President, as a matter of fact, I concur with the distinguished lady. I really want to finish the period of interpellations because I am itching to deliver my *turno en contra* speech on the subject.

SUSPENSION OF SESSION

So, with that, I move that we suspend the session, Mr. President.

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

It was 9:26 a.m.

RESUMPTION OF SESSION

At 9:26 a.m., the session was resumed.

The President Pro Tempore. The session is resumed.

The Majority Leader is recognized.

SPECIAL ORDER

Senator Sotto. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 95 on Proposed Senate Resolution No. 519, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATION (BLUE RIBBON) TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED NUMEROUS VIOLATIONS OF REPUBLIC ACT NO. 3019 OTHERWISE KNOWN AS THE ANTI-GRAFT AND CORRUPT PRACTICES ACT BY THE PREVIOUS BOARD OF THE PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO) WITH THE END IN VIEW OF CRAFTING LEGISLATIVE MEASURES TO CURB CORRUPTION AND PROMOTE TRANSPARENCY AND ACCOUNTABILITY IN GOVERNMENT

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

CONSIDERATION OF P. S. RES. NO. 519
(Philippine Charity Sweepstakes Office)

Senator Sotto. Mr. President, I move that we consider Proposed Senate Resolution No. 519 as reported out under Committee Report No. 95.

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

Consideration of Proposed Senate Resolution No. 519 is now in order. With the permission of the Body, the Secretary will read only the title of the resolution without prejudice to inserting in the *Record* the whole text thereof.

Senator Sotto. Yes, may we recognize first Sen. Teofisto L. Guingona III.

The President Pro Tempore. Sen. Teofisto L. Guingona III is recognized.

Senator Guingona. Thank you, Mr. President.

Mr. President, colleagues, ladies and gentlemen, good morning.

Mr. President, I move that we suspend the session for one minute.

Senator Sotto. Mr. President, no. I think there was a miscommunication. May we request the Secretary to read the title of the measure, so that we can recognize the Sponsor for the sponsorship speech.

The Secretary. Proposed Senate Resolution No. 519, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATIONS (BLUE RIBBON) TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED NUMEROUS VIOLATIONS OF REPUBLIC ACT NO. 3019 OTHERWISE KNOWN AS THE ANTI-GRAFT AND CORRUPT PRACTICES ACT BY THE PREVIOUS BOARD OF THE PHILIPPINE CHARITY SWEEPSTAKES OFFICE (PCSO) WITH THE END IN VIEW OF

CRAFTING THE LEGISLATIVE MEASURES TO CURB CORRUPTION AND PROMOTE
TRANSPARENCY AND ACCOUNTABILITY IN GOVERNMENT

Senator Sotto. To sponsor the measure, may we ask that the Chairman of the Committee on Accountability of Public Officers and Investigations, Sen. Teofisto L. Guingona III, be recognized.

The President Pro Tempore. Sen. Teofisto L. Guingona III is recognized.

SPONSORSHIP SPEECH OF SENATOR GUINGONA

Senator Guingona. Thank you, Mr. President.

Mr. President, colleagues, ladies and gentlemen, good morning.

Ang mandato ng PCSO ay ang pagtulong sa kapwang nangangailangan. Ang tunay na diwa ng PCSO, samakatuwid, ay ang pagkakawanggawa.

Ngunit ang naibunyag sa mga pagdinig ng Blue Ribbon ay ang pagwawaldas ng pondo ng PCSO sa mga bagay na walang anumang kinalaman sa pagkakawanggawa. Maraming kumita. Marami ang dapat parusahan.

The Blue Ribbon Committee hereby presents Committee Report No. 95, filed on December 19, 2011, pursuant to Proposed Senate Resolution No. 519 introduced by Sen. Panfilo M. Lacson and this representation, which directed the Blue Ribbon Committee to "conduct an inquiry, in aid of legislation, into the alleged numerous violations of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, by the previous board of the PCSO with the end in view of crafting legislative measures to curb corruption and promote transparency and accountability in government."

The Blue Ribbon hereby presents the essential findings of its Report.

Intelligence Funds

The Senate Blue Ribbon Committee strongly recommends that a case of plunder be filed against former President Gloria Macapagal-Arroyo and former Vice-Chairman and General Manager of the PCSO, Mrs. Rosario Uriarte.

While they were public officers, Gloria Macapagal-Arroyo and Rosario Uriarte teamed up to rob this nation of at least P244.5 million. Mrs. Arroyo made marginal notes and caused the release of millions of pesos to her partner, Mrs. Uriarte, who was in charge with the disbursement, use, and liquidation of the excessive amounts of intelligence funds.

Mrs. Uriarte's memoranda of requests for millions of pesos cited the need to address the threats against the operations of the PCSO. However, her own certifications immediately revealed that the funds were allegedly used to address things like terrorism, bomb threats and bilateral security relations.

Because of the excessive amounts released, the Blue Ribbon Committee asked for proof of lawful use of the public funds. However, neither Gloria Macapagal-Arroyo nor Rosario Uriarte ever presented the actual receipts and documents to prove that these funds were indeed lawfully used.

The Committee strongly believes that there is probable cause to believe that these funds were, in fact, illegally diverted into the pockets of Gloria Macapagal-Arroyo. Despite facing a possible case for plunder, not a single receipt has been presented by Madam Gloria Macapagal-Arroyo or Rosario Uriarte to save themselves. The Committee emphasizes the fact that particularly for the year 2010, an election year, the PCSO already used up P137.5 million out of the P150 million that was approved by the former president at the beginning of the year. For the same year, PCSO's intelligence fund budget was larger than the intelligence fund budget of the Philippine Army, larger than the ISAFP-GHQ, larger than the Department of National Defense budget for intelligence, larger than the intelligence budget for Philippine Navy, and larger than the budget of the NBI.

Additionally, Gloria Macapagal-Arroyo and Rosario Uriarte should be charged with technical malversation for using confidential/intelligence funds as "blood money" for OFWs.

*Donations of Vehicles to
Members of Catholic Church*

On the matter of donation of vehicles to the members of the Catholic Church, the Blue Ribbon finds that the donations of vehicles to various Catholic priests and bishops did not violate the Constitution because:

a) The donation was for a public purpose, charitable purpose, and not a religious purpose; and

b) The donation was not for the personal use of any religious leader.

*Excessive Public Relations/
Advertising Spending*

On the matter of excessive public relations and advertising spending, the findings of the Commission on Audit, together with the testimonies laid down in the Blue Ribbon hearings, revealed PCSO's excessive and unnecessary spending on public relations. Billions were spent on promoting betting in lotteries that could have been spent more wisely on charity.

The extravagant expenses for the sole purpose of promoting legal gambling are superfluous and pointless by the fact that there will always be people who will do anything to take a stake for the chance of winning big.

*Equipment Lease Agreement (ELA)
for PCSO's Online Lottery System*

On the matter of the Equipment Lease Agreement or ELA for PCSO's online lottery system, the Blue Ribbon hearings revealed that the company called International Totalizator System (ITS) initially offered to sell lotto equipment to PCSO for US\$25 million.

However, instead of buying the equipment from ITS, the PCSO conducted a public bidding to lease--not to buy--the same equipment from the private suppliers. The decision to lease instead of purchase continues to impose a great financial burden to the Philippines. Instead of spending US\$25 million to purchase the machines, the government instead has paid the private suppliers approximately US\$148 million in rental fees and will continue to pay exorbitant amounts until the contract ends in 2015.

Despite proper bidding, the resulting award of the contract, not only to the winning bidder but also to the two losing bidders, is questionable. The Blue Ribbon strongly recommends further investigation on this matter by the Ombudsman.

For signing the ELA, Manuel Morato, former PCSO Chairman, and Rosario Uriarte, former PCSO General Manager, should be charged with a violation of the Anti-Graft and Corrupt Practices Act for allegedly entering, on behalf of the government, into any contract that is manifestly and grossly disadvantageous to the government.

STL Remittances, Ambulance Donations, and Commingling of Funds

On the matter of STL remittances, ambulance donations and commingling of funds, there have been unaccountable remittances of the Small Town Lottery (STL) share to congressmen and the Philippine National Police (PNP).

The Blue Ribbon also finds that there has been mismanagement in the execution of PCSO's Ambulance Program. LGUs of a higher class category were prioritized compared to the lower class category of LGUs.

Commingling of funds by PCSO was also revealed. This violates the PCSO'S Charter which apportions the net receipts into three funds: (1) Prize Fund; (2) Charity Fund; and (3) Operating Fund.

Joint Venture Agreement

The Contractual Joint Venture Agreement (CJVA) between TMA Group of Companies (TMA) and the PCSO entered into for the purpose of establishing the first thermal coating plant in the Philippines should be cancelled for being grossly prejudicial to the Philippines. Violations of the Anti-Graft and Corrupt Practices Act were, in fact, committed by members of the former board of the PCSO.

The Blue Ribbon Committee finds that the profit-oriented Joint Venture Agreement entered into by PCSO violates the latter's own Charter, which limits the agency's ability to engage in profit-oriented ventures only to "health, welfare, and related investments."

Likewise, the Committee finds the contract grossly disadvantageous to the government because while it requires a P4.4 billion investment by the private company and a P42-billion worth of contribution on the part of the PCSO, the profit-sharing agreement flips the scenario and gives the private company an 80% share in the profits while leaving only 20% for the Philippine government.

Possible Conflicts of Interest in Relation to Properties of Manuel Morato

When the Prime Gaming Philippines, Inc. (PGPI) purchased the property of TF Ventures--a company partly owned by Manuel Morato--the latter was relieved of the burden of paying for the corporate debts owned by TF Ventures to the banks. It can be inferred that PGPI's resulting assumption of the debts of Morato's company is partly an act of gratitude extended to Morato, who was a member of the Board that approved the Equipment Lease Agreement of PGPI's related company, PGMC.

Further investigation must be pursued on possible conflicts of interest by Mr. Morato and his dealing with PGPI.

Possible Election Offenses Committed by Manuel Morato

This representation did not participate in the drafting of this portion of the report because Mr. Morato's allegations involved an assertion against me. Senator Drilon's concurring opinion is hereby adopted as part of the Main Report.

The Blue Ribbon hearings revealed that Mr. Morato has committed violations of the Omnibus Election Code and the Philippine Constitution. During an episode of "Dial M"--a production of PCSO paid for by public funds--he was shown campaigning in favor of a certain presidential candidate and criticizing several other candidates as well. This is a form of electioneering or partisan political activity aggravated by the blatant use of public funds, an act that is punishable under Section 79(b) of the Election Code.

Recommendations

The Blue Ribbon Committee, as a result of this legislative inquiry, has made the following recommendations:

FIRST. The PCSO Charter must contain penal provisions, imposing criminal, civil, and administrative liabilities for acts in violation of the Charter, committed by its employees and private individuals.

SECOND. The PCSO management must improve its accounting system to ensure that no further unlawful commingling of funds shall occur in the future.

THIRD. PCSO funds must be allocated only to various national programs which are **relevant** to the mandate of the agency. The current board of the PCSO must immediately undertake an extensive assessment and evaluation of the programs and projects to ensure that public funds are used within the scope of this agency's mandate.

FOURTH. The Commission on Audit should come up with new auditing guidelines for confidential and intelligence funds which should include, among others, the following provisions:

- A requirement to submit, in classified and sealed envelopes, the vouchers/receipts/other documents evidencing the expenses charged against a specific allocation of confidential or intelligence fund.
- A certification by the officer in charge of liquidation that these envelopes can be accessed for lawful purposes.
- A sealed copy of the proposals/requests submitted in support of the request for confidential or intelligence funds, which may be accessed for lawful purposes.

FIFTH. A law must be passed establishing a Treasury Single Account which can help the government track and discover, on a timely basis, transactions which may appear irregular based on the frequency of fund releases and the amount of the said releases.

SIXTH. The PCSO's budget for public relations and advertising purposes should not exceed 1.8% of its gross sales. The PCSO is not a private corporation that needs a huge advertising budget.

SEVENTH. Passage of a law that would augment PhilHealth funds with PCSO funds.

EIGHTH. PCSO should stop giving shares of the proceeds of its operations to the PNP--*dapat matigil na iyon*--because it is not primarily mandated to implement projects within the mandate of the PCSO.

NINTH. Shares from PCSO's operations that are released to congressional and/or other local government units should be strictly regulated. Without proper liquidation, future releases should never be made.

TENTH. The PCSO management should ensure that the strictest standards are established and observed to ensure that public funds are devoted only for public and secular purposes.

Let this serve as a reminder to all that public funds are sacred as it is imbued with public interest. Public funds could only be spent for authorized public purposes and can never be used as a private piggy bank.

Mr. President, ladies and gentlemen, thank you and good morning.

The President Pro Tempore. Thank you.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF
P.S. RES. NO. 519

Senator Sotto. Mr. President, to give time to the other senators to study the proposed measure, I move that we suspend consideration of Proposed Senate Resolution No. 519 under Committee Report No. 95.

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

BILL ON SECOND READING
S. No. 2796--Cybercrime Prevention
Act of 2011
(Continuation)

Senator Sotto. With the permission of the Chamber, Mr. President, I move that we resume consideration of Senate Bill No. 2796 under Committee Report No. 30.

The President Pro Tempore. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 2796 is now in order.

Senator Sotto. Mr. President, the parliamentary status of the measure is that we have already closed the period of interpellations. Considering that this is a substitute bill, there will be no Committee amendments. We now move that we open the period of individual amendments and that the Sponsor of the measure, Sen. Edgardo J. Angara, be recognized.

The President Pro Tempore. Sen. Edgardo J. Angara is recognized.

Senator Angara. Yes, Mr. President. In about five minutes the Secretariat will distribute the amended committee report incorporating all the individual amendments which were introduced in the course of the debate and interpellations so as to save the time of the Senate. In the meantime, I am having the Secretariat distribute copies of the proposed amendments introduced by individual senators and the explanation behind each amendment, again, for convenience. So, may we ask that we be given five minutes. The amended committee report, as amended by the individual senators, will be presented and distributed.

Senator Sotto. I move that we suspend the session for five minutes, Mr. President.

The President Pro Tempore. But before we suspend, the Chair would like to request the Senate President to come to the rostrum to preside over the resolution commending Sen. Miriam Defensor Santiago.

Senator Sotto. Yes, thank you, Mr. President.

SUSPENSION OF SESSION

The President Pro Tempore. The session is suspended for five minutes, if there is no objection. *[There was none.]*

It was 9:48 p.m.

RESUMPTION OF SESSION

At 10:04 a.m., the session was resumed.

The President Pro Tempore. The session is resumed.

The Majority Leader is recognized.

Senator Sotto. Mr. President, may we recognize the Sponsor, Sen. Edgardo J. Angara, for individual amendments.

The President Pro Tempore. Senator Angara is recognized.

AMENDMENTS

Senator Angara. Thank you very much, Mr. President.

What I am going to read into the *Record*, Mr. President, and for which, get the Body's approval, are individual amendments already introduced by individual senators during the course of the interpellation and the debate.

So, let me start. On page 2, Mr. President, line 15, insert a new paragraph under "*Definition of Terms*" to read as follows:

D) COMPUTER - AN ELECTRONIC, MAGNETIC, OPTICAL, ELECTROCHEMICAL, OR OTHER DATA PROCESSING OR COMMUNICATIONS DEVICE, OR GROUPING OF SUCH DEVICES, CAPABLE OF PERFORMING LOGICAL, ARITHMETIC, ROUTING, OR STORAGE FUNCTIONS AND WHICH INCLUDES ANY STORAGE FACILITY OR EQUIPMENT OR COMMUNICATIONS FACILITY OR EQUIPMENT DIRECTLY RELATED TO OR OPERATING IN CONJUNCTION WITH SUCH DEVICE. IT COVERS ANY TYPE OF COMPUTER DEVICE INCLUDING DEVICES WITH DATA PROCESSING CAPABILITIES LIKE MOBILE PHONES AND ALSO COMPUTER NETWORKS.

I so move, Mr. President.

The President Pro Tempore. And we will renumber the succeeding terms?

Senator Angara. And renumber the succeeding terms accordingly, Mr. President.

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

Senator Angara. On page 2, Mr. President, line 31, insert the following subparagraphs as additional terms to be defined as follows:

H) CRITICAL INFRASTRUCTURE - REFERS TO THE COMPUTER SYSTEMS, AND/OR NETWORKS, WHETHER PHYSICAL OR VIRTUAL, AND/OR THE COMPUTER PROGRAMS, COMPUTER DATA AND/OR TRAFFIC DATA SO VITAL TO THIS COUNTRY THAT THE INCAPACITY OR DESTRUCTION OF OR INTERFERENCE WITH SUCH SYSTEM AND ASSETS WOULD HAVE A DELIBERATING IMPACT ON SECURITY, NATIONAL OR ECONOMIC SECURITY, NATIONAL PUBLIC HEALTH AND SAFETY, OR ANY COMBINATION OF THOSE MATTERS.

I so move, Mr. President.

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

Senator Angara.

I) CYBERSECURITY - REFERS TO THE COLLECTION OF TOOLS, POLICIES, RISK MANAGEMENT APPROACHES, ACTIONS, TRAINING, BEST PRACTICES, ASSURANCE AND TECHNOLOGIES THAT CAN BE USED TO PROTECT THE CYBER ENVIRONMENT AND ORGANIZATION AND USER'S ASSETS.

I so move, Mr. President.

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

Senator Angara. And then renumber the succeeding terms accordingly.

The President Pro Tempore. It is noted.

Senator Angara. On page 3, Mr. President, line 20, between the words "which" and "can", insert the word IDENTITY so that the amended paragraph now reads as follows:

"N) Subscriber's Information - refers to any information contained in the form of computer data or any other form that is held by a service provider, relating to subscribers of its services other than traffic or content data and by which IDENTITY can be established."

I so move, Mr. President.

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

Senator Angara. On page 4, lines 14 and 17, delete the words "intentional" from the definitions of "Illegal Access" and "Illegal Interception" as cybercrime offenses.

I so move, Mr. President.

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

Senator Angara. On line 29, delete the phrase "intentional or reckless" and instead add the phrase DELETION, DETERIORATION in the definition of "Data Interference", which now reads as follows:

"3. Data Interference - the DELETION, DETERIORATION, alteration or suppression of computer data without right."

I so move, Mr. President.

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

Senator Angara. On line 32, Mr. President, delete the phrase "intentional or reckless" from the definition of "System Interference."

I so move, Mr. President.

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

Senator Angara. On line 36, insert a new subparagraph on cyber-squatting, to read as follows:

"5. CYBER-SQUATTING - THE ACQUISITION OF A DOMAIN NAME OVER THE INTERNET IN BAD FAITH TO PROFIT, MISLEAD, DESTROY REPUTATION, AND DEPRIVE OTHERS FROM REGISTERING THE SAME, IF SUCH A DOMAIN NAME IS:

i. SIMILAR, IDENTICAL, OR CONFUSINGLY SIMILAR TO AN EXISTING TRADEMARK REGISTERED WITH THE APPROPRIATE GOVERNMENT AGENCY AT THE TIME OF THE DOMAIN NAME REGISTRATION;

ii. IDENTICAL OR IN ANY WAY SIMILAR WITH THE NAME OF A PERSON OTHER THAN THE REGISTRANT, IN CASE OF A PERSONAL NAME; AND

iii. ACQUIRED WITHOUT RIGHT OR WITH INTELLECTUAL PROPERTY INTERESTS IN IT.

I so move, Mr. President.

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

Senator Angara. On page 5, line 23, delete the words "intentional" from the definition of "Computer-related Forgery".

I so move, Mr. President.

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

Senator Angara. Line 31, delete the phrase "intentional and" from the definition of "Computer-related Fraud".

I so move, Mr. President.

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

Senator Angara. Line 33, after the word "thereby", insert a PERIOD (.) and delete the succeeding comma (,) and phrases. The amended paragraph reading now as follows:

"2. Computer-related Fraud - the unauthorized input, alteration, or deletion of computer data or program or interference in the functioning of a computer system, causing damage thereby."

I so move, Mr. President.

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

Senator Angara. On page 6, delete lines 3 to 5, and insert the following new definition for "Cybersex".

1. CYBERSEX - THE WILLFUL ENGAGEMENT, MAINTENANCE, CONTROL, OR OPERATION, DIRECTLY OR INDIRECTLY, OF ANY LASCIVIOUS EXHIBITION OF SEXUAL ORGANS OR SEXUAL ACTIVITY, WITH THE AID OF A COMPUTER SYSTEM, FOR FAVOR OR CONSIDERATION.

I so move, Mr. President.

Senator Guingona. Mr. President.

The President Pro Tempore. Before that, Senator Guingona.

Senator Guingona. Mr. President, I would like to say that we still have a problem with the definition. It still acts...smacks of prior restraint and I am very sure this would, in my humble opinion, run against constitutional infirmities.

Senator Angara. We do not intend to impose any prior restraint, Mr. President. But if I can just ask our distinguished colleague to hold on until I read all the individual amendments into the *Record* and then we will go back to him on his point.

Senator Guingona. Thank you, Mr. President.

Senator Angara. I so move, Mr. President.

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

Senator Angara. Still on the same page, line 7, delete everything from the word "refers" until line 19.

I so move, Mr. President.

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

Senator Angara. On line 21, between the word "Law" and the period (.), insert a COMMA (,) and the following phrase: ESPECIALLY AS COMMITTED THROUGH A COMPUTER SYSTEM. The new definition for "Child Pornography" now reads as follows:

2. CHILD PORNOGRAPHY - THE UNLAWFUL OR PROHIBITED ACTS DEFINED AND PUNISHABLE BY REPUBLIC ACT NO. 9775 OR THE ANTI-CHILD PORNOGRAPHY LAW, ESPECIALLY AS COMMITTED THROUGH A COMPUTER SYSTEM.

I so move, Mr. President.

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

Before that, Sen. Pia Cayetano.

Senator Cayetano (P). Mr. President, I will assume similar to the reply of Senator Angara to Senator Guingona. I just want to express my possible concern on the definition because I just want to be sure it is aligned with the current definition of child pornography. I just like time to check on that. Later on if I do have comments, I can just make the individual amendments.

Thank you.

Senator Angara. Yes. We appreciate that, Mr. President. But, for the moment, the quick reply is that this exactly was amended at the request of Sen. Pia Cayetano

so that there will be no conflict within the definition here as well as the Child-Pornography Law.

Senator Cayetano (P). So, Mr. President, those are already the amendments we made.

Senator Angara. Yes.

Senator Cayetano (P). All right. Thank you very much.

Senator Angara. The lady Senator is welcome.

The President Pro Tempore. Thank you.

Senator Angara. On page 7, after line 22, insert the following paragraph:

ANY PERSON FOUND GUILTY OF THE PUNISHABLE ACT UNDER SECTION 4A-5 SHALL BE PUNISHED WITH IMPRISONMENT OF *PRISION* MAYOR OR A FINE OF NOT MORE THAN FIVE HUNDRED THOUSAND PESOS (PH500,000.00) OR BOTH.

I so move, Mr. President.

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

Senator Angara. Before line 23, also insert the following paragraph:

IF PUNISHABLE ACTS IN SECTION 4A ARE COMMITTED AGAINST CRITICAL INFRASTRUCTURE, THE PENALTY OF *RECLUSION TEMPORAL* OR A FINE OF AT LEAST FIVE HUNDRED THOUSAND PESOS (PH500,000.00) UP TO A MAXIMUM AMOUNT COMMENSURATE TO THE DAMAGE INCURRED OR BOTH.

I so move, Mr. President.

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

Senator Angara. On page 8, line 9, delete the word "in" after the word "within" and the comma (,).

I so move, Mr. President.

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

Senator Angara. Delete lines 28 to 33 and instead insert the following paragraphs:

SEC. 9. *REAL-TIME COLLECTION OF TRAFFIC DATA*. -- LAW ENFORCEMENT AUTHORITIES, WITH DUE CAUSE, SHALL BE AUTHORIZED TO COLLECT OR RECORD BY TECHNICAL OR ELECTRONIC MEANS TRAFFIC DATA IN REAL-TIME ASSOCIATED WITH SPECIFIED COMMUNICATIONS TRANSMITTED BY MEANS OF A COMPUTER SYSTEM.

TRAFFIC DATA REFER ONLY TO THE COMMUNICATION'S ORIGIN, DESTINATION, ROUTE, TIME, DATE, SIZE, DURATION, OR TYPE OF UNDERLYING SERVICE, BUT NOT CONTENT, NOR IDENTITIES.

ALL OTHER DATA TO BE COLLECTED OR SEIZED OR DISCLOSED WILL REQUIRE A COURT WARRANT.

SERVICE PROVIDERS ARE REQUIRED TO COOPERATE AND ASSIST LAW ENFORCEMENT AUTHORITIES IN THE COLLECTION OR RECORDING OF THE ABOVE-STATED INFORMATION.

I so move, Mr. President.

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

Senator Angara. On page 9, line 1, replace the second word "data" with the word DATE for the provision to read as follows: "Content data shall be similarly preserved for six (6) months from the DATE of receipt of the order from law enforcement authorities requiring its preservation."

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On line 25, after the word "Act", delete the succeeding phrase: "content of communications, procure the content of data either directly, through access and use of computer system, or indirectly, through the use of electronic eavesdropping or tapping devices, in real time or at the same time that the communication is occurring". And therefore, the provision will now read:

"Within the time period specified in the warrant, to conduct interception, as defined in this Act."

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On line 33, between the words "conduct" and "examination", insert the phrase FORENSIC ANALYSIS OR". To read as follows:

"d. To conduct FORENSIC ANALYSIS OR examination of the computer data storage medium; and".

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On page 10, after line 9, insert a new provision as follows:

SEC. 13. RESTRICTING OR BLOCKING ACCESS TO COMPUTER DATA.--WHEN A COMPUTER DATA IS PRIMA FACIE FOUND TO BE VIOLATIVE OF THE PROVISIONS OF THIS ACT, THE CENTRAL AUTHORITY SHALL ISSUE AN ORDER TO RESTRICT OR BLOCK ACCESS TO SUCH COMPUTER DATA.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. Renumber the following sections accordingly.

On line 35, insert a new paragraph under the section on "Jurisdiction" to read as follows:

THERE SHALL BE DESIGNATED SPECIAL CYBERCRIME COURTS MANNED BY SPECIFICALLY TRAINED JUDGES TO HANDLE CYBERCRIME CASES.

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On page 11, lines 10 to 13, delete the entire Section 17 on the "*Applicability of the Convention on Cybercrime*."

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. Still on page 11, line 18, reword the provision on Section 18, "*Department of Justice*" to read as follows:

SEC. 18. DEPARTMENT OF JUSTICE.--THERE IS HEREBY CREATED AN OFFICE OF CYBERCRIME WITHIN THE DOJ DESIGNATED AS THE CENTRAL AUTHORITY IN ALL MATTERS RELATED TO INTERNATIONAL MUTUAL ASSISTANCE AND EXTRADITION.

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. Line 27, reword the entire Section 19 on the "*Commission on Information and Communications Technology*" to read as follows:

SEC. 19. DEPARTMENT OF SCIENCE AND TECHNOLOGY - INFORMATION AND COMMUNICATIONS TECHNOLOGY OFFICE. - THERE IS HEREBY CREATED A NATIONAL CYBER SECURITY CENTER (NCSC) WITHIN THE DOST-ICTO DESIGNED TO FORMULATE AND IMPLEMENT A NATIONAL CYBERSECURITY POLICY....

Let me stand corrected, Mr. President. Let me introduce the amendment again.

SEC. 19. DEPARTMENT OF SCIENCE AND TECHNOLOGY-INFORMATION AND COMMUNICATIONS TECHNOLOGY OFFICE.--THERE IS HEREBY CREATED A NATIONAL CYBER SECURITY CENTER (NCSC) WITHIN THE DOST-ICTO DESIGNATED TO FORMULATE AND IMPLEMENT A NATIONAL CYBERSECURITY POLICY, AND EXTEND TECHNICAL ASSISTANCE FOR THE SUPPRESSION OF REAL-TIME COMMISSION OF CYBERCRIME OFFENSES THROUGH A COMPUTER EMERGENCY RESPONSE TEAM (CERT).

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On page 12, lines 1 to 2, delete the following words "CYBERCRIME INVESTIGATION AND COORDINATION CENTER" and in lieu thereof, insert NATIONAL CYBERSECURITY COORDINATING COUNCIL.

Therefore, to read as follows: CHAPTER VIII - NATIONAL CYBERSECURITY COORDINATING COUNCIL.

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On line 4, delete the following words "Cybercrime Investigation and Coordinating Center" and in lieu thereof, replace it with NATIONAL CYBERSECURITY COORDINATING COUNCIL.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On line 6, delete the same phrase "Cybercrime Investigation and Coordinating Center, herein referred to as CICC" and replace it with NATIONAL CYBERSECURITY COORDINATING COUNCIL, HEREIN REFERRED TO AS NCCC.

And so as amended, it will now read, Mr. President:

"SEC. 20. NATIONAL CYBERSECURITY COORDINATING COUNCIL. -- There is hereby created, within thirty (30) days from the effectivity of this Act, A NATIONAL CYBERSECURITY COORDINATING COUNCIL, hereinafter referred to as NCCC, under the control and supervision of the Office of the President, to formulate and implement the national cyber security plan."

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On line 10, reword the entire section on "Composition" to read as follows:

SEC. 21. COMPOSITION.--THE NCCC SHALL BE HEADED BY THE EXECUTIVE DIRECTOR OF THE DOST-ICTO AS CHAIRMAN; WITH THE DIRECTOR OF THE NBI; CHIEF OF THE PNP; HEAD OF THE DOJ OFFICE OF THE CYBERCRIME, AS MEMBERS; AND REPRESENTATIVES FROM THE PRIVATE SECTOR AND ACADEME.

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On line 16, change the acronym "CICC" to NCCC.

I so move, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Angara. On line 19, on the section on "*Powers and Functions*", change the acronym "CICC" to NCCC.

I so move, Mr. President.

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

Senator Angara. On lines 21 to 22, delete the phrase "to prevent and suppress cybercrime activities" and insert the phrase RELATED TO CYBERSECURITY. And, therefore, it will read as follows:

"a. To prepare and implement appropriate and effective measures RELATED TO CYBERSECURITY as provided in this Act".

I so move, Mr. President.

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

Senator Angara. Delete lines 25 to 27 and renumber the succeeding subparagraphs accordingly.

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

Senator Angara. Lines 29 to 30, delete the phrase "cybercrime prevention" and in lieu thereof, insert CYBERSECURITY.

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

Senator Angara. On line 34, replace the acronym "CICC" with NCCC.

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

Senator Angara. On line 35, insert the word AS between the words "duties" and "necessary" and delete the phrase "for the proper implementation of this Act."

I so move, Mr. President.

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

Senator Angara. On page 13, line 4, delete the word "ten" and replace it with the word FIFTY.

I so move, Mr. President.

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

Senator Angara. On line 5, delete the number "10,000,000.00" inside the parentheses and replace it with the number "50,000,000.00".

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

Senator Angara. On line 8, delete the phrase "Commission on Information and Communication Technology" and replace it with DEPARTMENT OF SCIENCE AND TECHNOLOGY AND THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, WITHIN 90 DAYS FROM THE EFFECTIVITY OF THIS ACT.

I so move, Mr. President.

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

Senator Angara. On line 10, delete the word "office" and substitute it with the word CENTER. So, the section now reads as follows:

"SEC. 25. *Implementing Rules and Regulations.* - The Department of Justice, in consultation with the DEPARTMENT OF SCIENCE AND TECHNOLOGY AND THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT, WITHIN 90 DAYS FROM THE EFFECTIVITY OF THIS ACT, shall formulate the necessary rules and regulations for the effective implementation of this Act including the creation and establishment of a national cyber security center with the relevant computer emergency response council or team."

I so move, Mr. President.

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

Senator Angara. And finally, Mr. President, on line 17, immediately after the number "33", insert a hyphen (-) and then insert a letter "A" effectively limiting the "Repealing Clause" only to Section 33-A of R.A. No. 8792, the E-Commerce Law, instead of the entire Section 33.

I so move, Mr. President.

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

Senator Angara. That summarizes it all, Mr. President, the individual amendments proposed by our Members in the course of the debate. And with the Chair's permission, I would like to go back to the query of--to the question of our distinguished colleague, Senator Guingona, on page 5 of this Memorandum on the definition of "Cybersex".

Mr. President, this new definition of Cybersex, precisely, was made in response to the reservations expressed by Senators Guingona and Santiago specifically to remove the word "arousal" from this definition. Arousal, being said and I agree, is a very subjective term. However, the clause for favor or consideration was kept because this is the moving consideration. It is the crux of cybersex crime that it is done for money, for consideration, for a favor, just similar to the definition of "prostitution".

So, I would like to hear now why this definition will suggest or imply a prior restraint, Mr. President.

Senator Guingona. Again, with the Chair's permission. Again, it leaves discretion on the judge. For example, "lascivious exhibition" can refer to anything very broad. And so, I still feel very, very uncomfortable with this, Mr. President. And my suggestion then is: Why do we not just delete the whole section?

Senator Angara. But there must be a definition of the crime, Mr. President. Otherwise....

Senator Guingona. That is precisely my point. It smacks of legislating morality, Mr. President.

Senator Angara. No, we are not legislating morality. But if we delete the definition, Mr. President, then the other implication is that we do not agree that cybersex is a crime and yet, that is probably one of the most rampant crimes being committed and particularly committed on our kids.

Senator Guingona. Well, Mr. President, I still cannot in conscience agree to it. I still believe that it will run smack against the Constitution.

Senator Angara. I respect the gentleman's personal opinion, Mr. President, and I....

Senator Guingona. I hope the gentleman will understand, Mr. President. These are my principles.

Senator Angara. Yes, yes. I respect the gentleman's libertarian inclinations, Mr. President, and I respect it.

Senator Guingona. Thank you.

Senator Angara. But may I still suggest that we must keep this, Mr. President, otherwise, we would be leading a large, large field of unregulated and noncriminalized activity which is quite often seen in practically every kid's computer and Internet kiosk in this country.

SUSPENSION OF SESSION

Senator Guingona. I move that we suspend the session for one minute, Mr. President.

The President Pro Tempore. Is there any objection? [Silence] There being none, the session is suspended for one minute.

It was 10:30 a.m.

RESUMPTION OF SESSION

At 10:32 a.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Angara. Mr. President, we are now ready to receive further individual amendments.

Senator Sotto. May we recognize Sen. Miriam Defensor Santiago, Mr. President.

The President Pro Tempore. Sen. Miriam Defensor Santiago is recognized.

DEFENSOR SANTIAGO AMENDMENTS

Senator Santiago. I express humble appreciation for the efforts of the honorable Sponsor, Senator Angara, to incorporate as Committee amendments those that were implicitly stated in my interrogation. However, in addition, I would like to propose just three amendments today.

First amendment. On page 2, Section 3 (e), line 27.

Senator Angara. Yes.

Senator Santiago. I propose to amend the definition so that it will read as follows: Now I am quoting:

"e) Computer Data - refers to any representation of facts, information, or concepts in a form suitable for processing in a computer system including a program suitable to cause a computer system to perform a function and includes electronic documents and/or electronic data messages"--and this is the amendment--WHETHER STORED IN LOCAL COMPUTER SYSTEMS OR ONLINE."

The explanation for this proposal is as follows:

Sections 4(A) and (B) of our Act define offenses against confidentiality, integrity and availability of computer data and systems and computer-related offenses. Said offenses apply to computer data and computer system.

The Act is clear that owners of computer systems or data are protected from hacking or interference as criminalized in Sections 4(A) and (B). They should also apply to online programs, emails and social networks.

That is the explanation.

Senator Angara. It is accepted, Mr. President.

Senator Santiago. Thank you.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment of Senator Santiago is hereby approved.

Senator Santiago. Proposed amendment No. 2. On page 5, Section 4(B)(2), line 33, I humbly propose to delete the phrase "with the intent of procuring economic benefit for oneself or for another person or for the perpetuation of a fraudulent or dishonest activity", and insert in its place this phrase WITH FRAUDULENT INTENT so that the same shall read as follows:

"2. Computer-related Fraud - the intentional and unauthorized input, alteration, or deletion of computer data or a program or interference in the functioning of a computer system, causing damage thereby--and here is the amendment-- WITH FRAUDULENT INTENT; Provided, that if no damage has yet been caused, the penalty imposed shall be one degree lower."

My explanation for this proposal is as follows: Damage and fraudulent intent should be sufficient, whether or not there is an economic benefit. It is possible that the intention of the computer-related fraud is not economic gain, but destruction. "Perpetuation of a fraudulent activity" connotes a series of actions. It should be sufficient that the perpetrator in one act shows fraudulent intent.

I respectfully submit this amendment.

Senator Angara. We accept, Mr. President, because the amendment makes it even simpler but clearer the intention of this definition. So, we accept it.

The President Pro Tempore. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Santiago. Thank you, Mr. President.

Last amendment. On page 8, Section 9, line 33, insert another paragraph which shall read: THE COURT WARRANT REQUIRED UNDER THIS SECTION SHALL ONLY BE ISSUED OR GRANTED UPON WRITTEN APPLICATION AND THE EXAMINATION UNDER OATH OR AFFIRMATION OF THE APPLICANT AND THE WITNESSES HE MAY PRODUCE AND A SHOWING: (1) THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT ANY OF THE CRIMES ENUMERATED HEREINABOVE HAS BEEN COMMITTED OR IS BEING COMMITTED OR IS ABOUT TO BE COMMITTED; (2) THAT THERE ARE REASONABLE GROUNDS TO BELIEVE THAT EVIDENCE OBTAINED WILL BE ESSENTIAL TO THE CONVICTION OF ANY PERSON FOR, OR TO THE SOLUTION OF, OR TO THE PREVENTION OF, ANY SUCH CRIMES; AND (3) THAT THERE ARE NO OTHER MEANS READILY AVAILABLE FOR OBTAINING SUCH EVIDENCE.

My explanation is that, at present, it seems to me Section 9 lacks parameters to ensure that the authority thus granted will not be abused by the law enforcement authorities. I have therefore looked to Republic Act No. 4200, also known as the Anti-Wire Tapping Law, particularly Section 3, as my guide in setting the parameters for Section 9 of our present Act. If we look at Section 3 of the Anti-Wire Tapping Law, we will find a proviso that reads: "Provided, That such written order shall only be issued or granted upon written application and the examination under oath or affirmation of the applicant and the witnesses he may produce and a showing: (1) that there are reasonable grounds to believe that any of the crimes enumerated hereinabove has been committed or is being committed or is about to be committed." And if we skip over parenthesis (2) and then go on, parenthesis (3) of this other law provides "that there are no other means readily available for obtaining such evidence."

For these reasons, I humbly submit this amendment.

Senator Angara. We accept it, Mr. President, because it further strengthens the big restraint which we want law enforcers to exercise before they search any of these computer data. As we already know, whether it is in England or in America, so much abuse has been committed for lack of parameters as recommended by our distinguished jurist. And so we accept her amendment with alacrity and gratitude.

Senator Santiago. May I express thanks to the distinguished Sponsor, Senator Angara, not only my thanks but also my admiration for his never failing accommodation of legislative amendments and for his brilliance in the legislative history in this country.

Senator Angara. Thank you very much.

The President Pro Tempore. Is there any objection to the amendment of Senator Santiago? [Silence] There being none, the amendment is approved.

Senator Sotto. Mr. President, will the distinguished Sponsor accept an individual amendment?

Senator Angara. With pleasure, Mr. President.

Senator Sotto. Thank you, Mr. President.

May I be allowed to lay out the predicate on why I am including this particular amendment.

The President Pro Tempore. But before the Majority Leader poses his amendment, I think Senator Lacson....

Senator Lacson. I have only one clarificatory question on the definition of "cybersex", Mr. President.

If it involves any lascivious exhibition of sexual organs or sexual activity with the aid of a computer system for favor or consideration, does this not cover phonesex, Mr. President?

Senator Angara. I beg the gentleman's pardon? What was the question?

Senator Lacson. Of course, the gentleman knows that--phonesex, sex conversation. It does not involve exhibition.

Senator Angara. Just verbal.

Senator Lacson. Just verbal. I think we should cover that, Mr. President. In spite of the protestation of Senator Osmeña, I think we should cover that. [Laughter] Anyway, I am just trying to clarify. I just need a reply from the Sponsor.

Senator Angara. Probably, Mr. President, we may already be stepping outside the limit of what is permissible and what is not permissible.

Senator Lacson. Thank you. Then Senator Osmeña will be very happy, Mr. President.

Senator Angara. Thank you.

Senator Sotto. Just to add to the point that was raised by Senator Lacson. It is very difficult nowadays to classify the telephone as part of the computer system when it comes to this particular law, although I tend to support him. But, of course, we leave it at that. Thank you. May I be allowed, Mr. President, Mr. Sponsor.

The President Pro Tempore. Yes, with pleasure.

Senator Angara. Yes, Mr. President.

Senator Sotto. We are aware of the numerous abuses in our technology today. Videos and photos are uploaded. Unnecessary write-ups and comments have been made in the social networking systems with the public having in mind an imprecise concept of freedom of speech. *Lampas na sa* freedom of speech, if we will go through these social networking systems.

Mr. President, in *Mendez v. Court of Appeals*, G.R. No. 124491, June 1, 1999, "Libel is defined as a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to discredit or cause the dishonor or contempt of a natural or juridical person, or to blacken the memory of one who is dead. Thus, the elements of libel are: (a) imputation of a discreditable act or condition to another; (b) publication of the imputation; (c) identity of the person defamed; and, (d) existence of malice.

Furthermore, Mr. President, in *Lacsa v. Intermediate Appellate Court*, 161 SCRA 427, 1988, it was stated, "Words calculated to induce suspicion are sometimes more effective to destroy reputation than false charges directly made. Ironical and metaphorical language is a favored vehicle for slander. A charge is sufficient if the words are calculated to induce the hearers to suppose and understand that the person or persons against whom they were uttered were guilty of certain offenses, or are sufficient to impeach their honesty, virtue, or reputation, or to hold the person or persons up to public ridicule".

Now, with this in mind, I hope the Sponsor could include the following in addition to contempt-related crimes with the end in view of applying libel in cyberspace. We would want to place it on record that the publication requirement in the crime of libel is achieved by the mere fact that it is seen in cyberspace and this can further promote the advocacy of "Think before you click". So, cybercrime offenses, Mr. President, are not covered under Republic Act No. 3815 where libel is there in Article 355.

So, Mr. President, may I propose that we insert on page 6, line 37, probably the last one for Section 4, *LIBEL. - THE UNLAWFUL OR PROHIBITED ACTS OF LIBEL AS DEFINED IN ARTICLE 355 OF THE REVISED PENAL CODE COMMITTED THROUGH A COMPUTER SYSTEM OR ANY OTHER SIMILAR MEANS WHICH MAY BE DEvised IN THE FUTURE.*

Senator Angara. Where does the gentleman propose to place that?

Senator Sotto. Before Section 5, Mr. President, the last part of Section 4.

Senator Angara. Before Section 5 on page 7.

Senator Sotto. Yes, Mr. President, page 7.

Senator Angara. Can the gentleman read it again? I know the essence; I just want to pay attention to the language.

SOTTO AMENDMENT

Senator Sotto. *LIBEL - THE UNLAWFUL OR PROHIBITED ACTS OF LIBEL AS DEFINED IN ARTICLE 355 OF THE REVISED PENAL CODE COMMITTED THROUGH A COMPUTER SYSTEM OR ANY OTHER SIMILAR MEANS WHICH MAY BE DEvised IN THE FUTURE.*

Senator Angara. It is accepted, Mr. President, because what the gentleman is suggesting is, that cyberspace or computer is just a new avenue for publicizing or communicating a libelous statement. Anyway, the statement that will be subject to prosecution and punishment is as defined by the Revised Penal Code.

Senator Sotto. Yes.

Senator Angara. So, we accept it, Mr. President.

Senator Sotto. Thank you, Mr. President.

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

Senator Sotto. With that, I move that we close the period of individual amendments.

The President Pro Tempore. Is there any objection? *[Silence]* There being none, the period of individual amendments is hereby terminated.

APPROVAL OF S. NO. 2796 ON SECOND READING

Senator Sotto. Mr. President, I move that we vote on Second Reading on Senate Bill No. 2796, as amended.

The President Pro Tempore. Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on Senate Bill No. 2796, as amended.

As many as are in favor of the bill, say aye.

Several Members. Aye.

The President Pro Tempore. As many as are against, say nay. *[Silence]*

Senate Bill No. 2796, as amended, is approved on Second Reading.

SUSPENSION OF CONSIDERATION OF S. NO. 2796

Senator Sotto. Mr. President, I move that we suspend consideration of Senate Bill No. 2796.

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

MANIFESTATION OF SENATOR SOTTO
(That Senator Villar Be Made a Coauthor of
S. Nos. 455 and 3060)

Senator Sotto. Mr. President, we are in receipt of a letter from Sen. Manny Villar asking that he be made a coauthor of Senate Bill No. 455, under Committee Report No. 9; and Senate Bill No. 3060, under Committee Report No. 81.

The President Pro Tempore. It is noted.

ADJOURNMENT OF SESSION

Senator Sotto. Mr. President, I move that we adjourn the session until nine o'clock in the morning of Monday, January 30, 2012.

The President Pro Tempore. Is there any objection? *[Silence]* There being none, the session is adjourned until nine o'clock in the morning of Monday, January 30, 2012.

It was 10:47 a.m.