

MONDAY, OCTOBER 21, 2002

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MONDAY, OCTOBER 21, 2002

OPENING OF THE SESSION

At 3:58 p.m., the Senate President, Hon. Franklin M. Drilon, called the session to order.

The President. The 27th session of the Second Regular Session of the Twelfth Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Rodolfo G. Biazon.

The Senate Choir will lead us in the singing of the national anthem.

PRAYER

Everybody rose for the prayer.

ECUMENICAL PRAYER

Senator Biazon.

Heavenly Father, we thank You for the fullness of Your grace as You continue to provide comfort to those who seek Your intercession.

We feel sad, dear Father, Of the events that transpired in Bali, Indonesia, Zamboanga City, and Makati where the lives of innocent people have to be sacrificed.

We do not know what is in the minds of those who perpetuated these horrific acts, but You know their intentions.

We ask that You enlighten their hearts and minds.

Oh God, and make them realize that their acts only bring misery to this troubled world.

Look with mercy, Lord, to the relatives of those who perished that they may find consolation in Your everlasting love.

We lift up to You those who have been wounded, that You would lay Your healing hands upon them and be restored to good health as soon as possible.

This is our prayer in Your mighty name.

Amen.

The President. Senate Choir will now lead us in the singing of the national anthem.

NATIONAL ANTHEM

Everybody remained standing for the singing of the national anthem.

ROLL CALL

The Secretary will please call the roll.

The Acting Secretary (Atty. Reyes),
reading:

| | |
|--|---------|
| Senator Edgardo J. Angara..... | Absent |
| Senator Teresa Aquino-Oreta..... | Present |
| Senator Joker P. Arroyo..... | Present |
| Senator Robert Z. Barbers..... | Absent |
| Senator Rodolfo G. Biazon..... | Present |
| Senator Renato L. <i>Compañero</i> Cayetano..... | Present |
| Senator Noli "Kabayan" de Castro..... | Present |
| Senator Luisa "Loi" P. Ejercito Estrada.... | Present |

Senator Juan M. Flavier.....Present
 Senator Gregorio B. Honasan.....Present
 Senator Robert S. "JAWO" Jaworski.....Present*
 Senator Panfilo M. LacsonPresent
 Senator Loren B. Legarda Leviste.....Present
 Senator Ramon B. Magsaysay Jr.....Present
 Senator John H. Osmeña.....Present*
 Senator Sergio R. Osmeña III.....Present
 Senator Francis N. Pangilinan..... **
 Senator Aquilino Q. Pimentel Jr.....Present
 Senator Ralph G. Recto.....Present*
 Senator Ramon B. Revilla.....Present*
 Senator Vicente C. Sotto III.....Present
 Senator Manuel B. Villar Jr.....Present
 The President.....Present

The President. With 16 senators present, there is a quorum.

Senator Leviste. Mr. President.

The President. The Majority Leader is recognized.

THE JOURNAL

Senator Leviste. Mr. President, I move that we dispense with the reading of the *Journal* of the 26th session, October 16 and 17, 2002 and consider it approved.

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

Senator Leviste. I move that we proceed to the Reference of Business.

The President. The Secretary will read the Reference of Business.

*Arrived after roll call
 **On official mission

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 2388.
entitled

AN ACT CONDONING THE PAYMENT OF
INTEREST, PENALTIES AND SURCHARGES
ON DELINQUENT SOCIAL SECURITY
CONTRIBUTIONS SUBJECT TO CERTAIN
CONDITIONS AMENDING FOR THIS
PURPOSE REPUBLIC ACT 1161,
OTHERWISE KNOWN AS THE SOCIAL
SECURITY ACT OF 1954, AS AMENDED
AND FOR OTHER PURPOSES

Introduced by Senator De Castro

The President. Referred to the Committees
on Government Corporations and Public
Enterprises; and Labor, Employment and Human
Resources Development

The Secretary. Senate Bill No. 2389.
entitled

AN ACT AMENDING SEC. 3 OF PRESIDENTIAL
DECREE NO. 1566, ALSO KNOWN AS AN
ACT STRENGTHENING THE PHILIPPINE
DISASTER CONTROL, CAPABILITY AND
ESTABLISHING THE NATIONAL PROGRAM
ON COMMUNITY DISASTER PREPAREDNESS

Introduced by Senator De Castro

The President. Referred to the Committees
on Social Justice, Welfare and Rural
Development; National Defense and Security;
and Finance

The Secretary. Senate Bill No. 2390.
entitled

AN ACT AMENDING SEC. 87 OF REPUBLIC NO.
8550, OTHERWISE KNOWN AS THE
PHILIPPINE FISHERIES CODE OF 1998
AND FOR OTHER PURPOSES

Introduced by Senator De Castro

The President. Referred to the Committees
on Agriculture and Food; and Environment and
Natural Resources

RESOLUTION

The Secretary. Proposed Senate Resolution
No. 457, entitled

RESOLUTION CONGRATULATING THE NATIONAL
PRESS CLUB OF THE PHILIPPINES ON
THE OCCASION OF ITS GOLDEN
ANNIVERSARY ON OCTOBER 29, 2002

Introduced by Senator Leviste

The President. Referred to the Committee
on Rules

The Majority Leader is recognized.

Senator Pimentel. Mr. President.

Senator Leviste. Mr. President, I move
that we recognize Sen. Aquilino Q. Pimentel
Jr.

The President. Yes, Sen. Aquilino Q.
Pimentel Jr. is recognized.

MANIFESTATION OF SENATOR PIMENTEL
(Insertion of His Report on Trip to
Jakarta)

Senator Pimentel. I made a report on my
trip to Jakarta, Mr. President, that I would

like to request that it be inserted into the records as if it was read.

I merely wish to highlight that our embassy personnel in Jakarta are a little apprehensive about the developments in Jakarta. They feel that because of the pronouncements of the government that it was supporting the call of the U.S. to tag the *Jamaah Islamiyah* as a terrorist organization, things could become worse for Filipinos in Indonesia.

And to my mind, there is basis for their anxiety because two years ago, Mr. President, we will remember, our embassy was bombed. And Ambassador Leonides Caday was in fact, seriously injured. And just about the day when the Bali explosion took place, our consulate in Manado was also bombed. And therefore, their request is for some assistance where they could beef up their security at least for our embassy personnel in the Indonesian archipelago.

Thank you very much, Mr. President.

The President. The Secretary is directed to include in the *Record of the Senate* the written report of Senator Pimentel, as requested.

The following is the written report of Senator Pimentel, re: Jakarta Trip:

REPORT

To : The Senate
From : Sen. Nene Pimentel
Re : Jakarta Trip

Date : October 21, 2002

Upon invitation of the German Technical Cooperation, I went to Jakarta, Indonesia on Oct. 15, 2002 at no expense of the Senate to discuss our country's experience on devolution before an international meeting of decentralization advocates.

I highlighted the benefits and the problems faced by the country in terms of devolution. And that we are now amending the Local Government Code 11 years after its passage.

I also explained that there is now a move in the country for a shift from the unitary to the federal system of government.

Code used as model

Our country's experiment with devolution drew some praises from participants who said that the Local Government Code is being used as a working model in many countries that are trying to decentralize powers. One participant said that he could hardly believe that the government departments which were affected by the devolution parted with the powers and money of their departments without putting up a vigorous opposition to the intent to decentralize.

I explained that indeed we not only had strong opposition from certain departments, we actually had serious quarrels with some Cabinet secretaries. Their spirited defense of their turfs could have derailed the Senate effort at devolution had the then Pres. Corazon C. Aquino not backed up the move.

Dutch federal ploy

Participants in general found our proposal to adopt the federal system for the country sensible. I did not know, however, that some Indonesian authorities are wary about federalism reportedly for historical reasons. I was told that when Indonesia was still a colony of the Dutch, the concept of federalism was broached to them by the latter. The concept was shot down by the Indonesians who feared that it was a Dutch ploy to keep them divided in the post colonial era.

Tension In Jakarta

Jakarta is a little tense as I write these lines (Oct 16) in Hotel Borobodur as a result of the bomb exploded by terrorists in Bali, Indonesia on October 12. It is the same feeling that Indonesians in Jakarta now have that we in Manila had in the aftermath of the terror bombings in Zamboanga and Kidapawan recently. Not fear really but more unease.

Our embassy personnel are also on edge as they might be directly targeted by terrorists. I think that they have reason for their anxiety. Our embassy in Jakarta was bombed two years back resulting in some damage to the embassy premises and to severe physical injuries to Ambassador Leonides T. Caday. And our consulate in Manado was likewise bombed only a few days ago.

Ambassador Rafael Sequis told me that he had filed a formal complaint against the bombing of our consulate in Manado. He said that the Manado authorities had acted on his complaint immediately and they had in fact already arrested two suspects.

High risk

It is my view that the public endorsement given by President Gloria Macapagal-Arroyo to the call of the U.S. government to declare the Jamaah Islamiyah a terrorist organization could put the lives of our embassy personnel and the premises of our embassy and consulate at high risk of being targeted by extremists in Indonesia.

The ambassador, however, said that the relations between our two countries remain cordial and friendly. In fact, he said that Pres. Gloria Macapagal-Arroyo's phone call to Pres. Megawati Sukarnoputri condoling with her on the recent carnage of tourists and local residents of Bali and her sending of a medical team (two burns specialist doctors and two nurses) to help the victims were well received and appreciated by Indonesian authorities.

Nonetheless, I suggest that the government should extend whatever assistance we are capable of to upgrade the security of our embassy premises and personnel in Indonesia. I understand that there are some 4000 Filipinos in Indonesia and most of them are well integrated into the Indonesian community.

Politics heating up

But if politics is heating up the air in Manila, its virus is also infecting the atmosphere in Jakarta. Our President could perhaps relax in the thought that she is after all not the only leader in Southeast Asia who is being pilloried by her critics. Megawati is also getting flak from opposition quarters quoting poll surveys.

In surveys conducted by the Institute for Social and Economic Research, Education

& Information and by the Center for Political Studies; Megawati, the vice president, the speaker of the people's consultative assembly and the speaker of the House were described by the respondents "as unfit to retain power."

Like their counterparts here, Indonesian opposition leaders said that the people must "seek a new national leader qualified to run the country in 2004."

Ambivalent

Regional news reaching Jakarta while I was there hinted broadly that Indonesian politicians had been ambivalent about the need to condemn the Bali bombing. Or to link a so-called "shadowy organization," the Jamaah Islamiyah, that reportedly counts millions of followers in Indonesia, to the bombing in Bali. The Jamaah Islamiyah supposedly has links with Al Qaeda.

Terrorist act

In fairness, on the afternoon of October 15, the Indonesian Defense Minister Matori Abdul Djalil denounced on local TV the Bali bombing as the act of "terrorists." No specific group, however, was as of October 16 been pinpointed as the culprit behind the bombings in Bali and in Manado.

In a move that caught most Indonesia watchers by surprise, the police ordered on October 19 the spiritual leader of the Jamaah Islamiyah, Bashir Abu Bakar, to appear at its headquarters in Jakarta to answer questions regarding the Islamiyah's involvement with some earlier bombings other than the Bali bombing, and particularly those Christmas eve

bombings across Indonesia in 2000 where 19 people died.

Bears watching

What makes the situation a little complicated is the report that the Indonesian Vice President, Hanzah Haz, had issued a public statement that he would go to jail with the spiritual leader of Jamaah Islamiyah, Bashir Abu Bakar, if the latter would be arrested. As of this writing, Bashir is reportedly under medical treatment in the Muhammadiyah Hospital in Solo, Bashir's hometown, where the police has allowed him to stay there until he is fit to face interrogation at the police headquarters in Jakarta. (As of today, October 21, 2002, Bashir appears to have been cleared by the Indonesian police of involvement in the Bali bombing.)

The situation in Indonesia, thus, bears intense watching by the government.

Laskar Jihad, dissolved

A welcome development that followed in the wake of the Bali bombing was the dissolution of Laskar Jihad, a known instigator of Muslim riots against Christians in Ambon. The *Jakarta Post* called the dissolution "a surprising move that came amid the intense hunt for terrorists blamed for the bombings in xxx Bali."

A copy of my speech before the Jakarta conference is attached as Annex A of this report.

Annex "A"

Raising the ante
from Devolution to Federalization

(Talk of Senator Aquilino Q. Pimentel Jr.
at the Conference on Decentralization
in Jakarta, October 15, 2002)

At the outset, may I thank the sponsors of this conference for inviting me to discuss the issue of decentralization as it affects my country, the Philippines.

Archipelagic country

The Philippines is an archipelago that has 7,000 countable islands that include two big ones: Luzon where Manila, the nation's capital is located, and Mindanao where most Muslim Filipinos reside. In between Luzon and Mindanao are the several islands of the Visayas.

The population of the country is roughly 80 million today, the great majority of whom (87%) consider themselves Christians. Some 5 million are Muslims. The remaining few follow other religions or none at all.

For centuries now, the country has been run under a very highly centralized system of government.

Colonial government

As a colony of Spain from 1521 to 1898, the country was ruled by the Spaniards from Manila as the center of political, financial and cultural power.

When the Americans took over control of the country from 1898 to 1946, the system of highly centralized control of governance from Manila continued.

The highly centralized system of government remains to this very day even after the country regained our independence from the Americans in 1946.

The highly centralized system of government in our country has stunted economic development and has heightened tensions among the people in the impoverished areas of the country, particularly, in the Muslim dominated areas of Mindanao.

Local Government Code of 1991

Then, in 1990, the Local Government Code was passed by Congress and made effective in 1991. Since then, certain powers of government, such as those that pertain to health, agriculture, and social welfare, and snippets of power over education, environment, tourism and to some extent, police, had been devolved to and exercised by local governments, namely, the provinces¹, the cities², the municipalities³ and the barangay⁴, the smallest unit of government in this country.

Before the adoption of the Local Government Code, the taxes⁵ of the nation and the revenues accruing to the government from natural resources⁶ like geothermal plants, gold, copper and iron mines, and timber had been monopolized by the central government.

1 There are 79 provinces in the country

2 There are 113 cities

3 There are 1,494 municipalities

4 There are some 41,932 barangay in the country

5 Taxes of the nation are divided as follows: 60% goes to the central government; 40% goes to the local

With the adoption of the Local Government Code, these were now mandated to be shared between the central government and the local government units.

Because of the devolution of certain central government powers to the local governments and the compulsory sharing of central government taxes and revenues derived from natural resources between the former and the latter, there is now substantial modernization of the localities.

Provinces, cities, municipalities and barangay are now able to provide many of the basic services that they used to rely on the central government to deliver. More and more roads are constructed or repaired by the local governments through their local engineering offices. More and more schools and teachers needs are provided by the local governments through the local school boards. More and more health services are delivered by local governments through the local health boards. More and more agriculture-and-social welfare-related services are delivered through locally organized agriculture and social services offices.

governments. Of the 40% share of local governments, 23% goes to the provinces; 23% goes to the cities; 34% goes to the municipalities, and 20% goes to the barangay.

6 Revenues from natural resources are apportioned as follows: 20% goes to the provinces; 45% goes to the municipalities; 35% goes to the barangay. If found in the cities, 65% goes to the cities and 35% goes to the barangay.

In a word, more and more socio-economic activities are now undertaken by local governments than ever before.

Abuses in local governments

It does not mean, however, that local government officials have now become paragons of public service and virtue. Some local officials abuse or misuse their powers. Some local officials continue to grovel before the central government in search of more funds. Some local officials refuse or fail to maximize their powers, especially in matters of taxation for fear of voter backlash.

But by and large, there has been a quantum leap in the matter of delivery of basic services to our people since the devolution of certain powers, finances and resources from the central government to the local government.

Having eaten of the fruit of devolution, there is no turning back now as far as local government officials are concerned. In fact, local governments now want more. They want at least 50% of the taxes and revenues collected by the central government. They want more powers over the police, tourism, trade, and development issues in general.

In fine, local governments want to raise the ante in the matter of power-tax-and-revenue sharing with the central government.

Demand for federalism

To my mind, that demand cannot be assuaged short of establishing the federal system of government in the country.

Which I think is on the right track because I believe that effectively governing a country of more than 7,000 islands and a population of some 80 million who speak various languages and are of varied cultural origins through a highly centralized government is next to impossible unless certain basic human rights and some civil liberties of the people are sacrificed on the altar of government efficiency. However, I believe that sacrificing human rights and civil liberties are too high a price to pay for an effective government.

The solution, I would like to submit, is the adoption of the federal system.

Muslim people's armed struggles

One problem that to this very day continues to defy a just and lasting solution and which we believe stems, mainly, from the over centralized system of governance of the country, for example, is the incessant Muslim armed resistance in Mindanao.

One Muslim tribe after another has continuously fought the government from the Spanish colonial rulers from 1521 to 1898. Muslim rebels battled the American colonial government on and off from 1898 to the 1940s. And from 1946 up to the present, Muslim arms ceaselessly combatted our own government as an independent Republic thereby uselessly draining the resources of the nation that could be put to better use.

As a resident of Mindanao, I can cite some five Muslim uprisings that I can bear witness to vicariously and directly.

Dimakaling, Maranao

As a preschool child in the late '30s, I used to hear my uncles sing of the ballad of Dimakaling, a Muslim leader, from the tribe of the Maranaos in Lanao, who rose up in arms against the American colonial government. Dimakaling demanded better treatment for the Muslim minority than that accorded them by the American colonial government.

The American colonial government used superior force to suppress the Dimakaling-led Maranaw rebellion.

Dimakaling was killed; hundreds of lives were lost and millions of pesos worth of properties were destroyed in the forcible suppression of the rebellion.

The Dimakaling led rebellion died with him and things meted down in Lanao.

Kamlon, Tausug

Then as a high school student in the '50s, I witnessed another Muslim armed uprising, this time, against the government of the Republic [as we had now regained our independence] led by Hadji Kamlon of the Tausug tribe of Sulu.

Kamlon demanded better treatment by the government for the Muslims. Again, the response of the government was to use superior force to put an end to the Kamlon-led Tausug rebellion.

Kamlon was captured and put in jail for several years; hundreds of lives were lost and millions of pesos worth of properties were destroyed in the forcible suppression of the rebellion.

Things quieted down in Sulu until the 60s when now as a professional, I saw a new Muslim-led armed challenge rose against the government led by Datu Udtoq Matalam of the Maguindanao tribe of Cotabato.

Matalam, Maguindanao

Matalam demanded better treatment by the government for the Muslims. He also raised the goal that he and his rebel band wanted: Mindanao independence.

As usual, the government responded by employing superior force to quell the Matalam uprising. After the loss of several lives and the destruction of several properties, the guns of Matalam and his Maguindanao rebels were silenced. And things quieted down in Maguindanao and Cotabato.

Misuari, Tausug

Barely 10 years later, however, when Pres. Ferdinand E. Marcos placed the country under martial rule in 1972, another Muslim led rebellion clashed with government. This time, the rebellion was led by Nur Misuari, a Tausug, from Sulu, who had emerged as the chieftain of the Moro National Liberation Front. The MNLF rebellion proved to be the longest lasting Muslim-led war against the government. Up to today, even as Misuari is in prison, the armed uprising goes on.

There was, however, a slack in the MNLF rebellion when Misuari agreed to run for and was elected to the governorship of the Autonomous Region in Muslim Mindanao in the September 2, 1996 for a three-year term that was extended to 2001.

Everybody breathed a sigh of relief when Misuari was, as it were, coopted into government service as the elected governor of the autonomous region. The relief proved to be short-lived not because Misuari took up arms so soon after his election as the autonomous region governor but because another Muslim leader led a new uprising against the government in 1979.

Salamat, Maguindanao

The new rebellion was led by Hashim Salamat, chair of the Moro Islamic Liberation Front and he was a member of the Maguindanao tribe coming as he does from the Cotabato and Maguindanao provinces.

Incidentally, Salamat's MILF rebellion goes on to this very day even as government troops had routed the rebels in several battles in areas claimed by the latter. Negotiations are going on between MILF leaders and the government. Salamat, himself, is in hiding.

Status of Muslim rebellion

The status of the Muslim rebellions⁷ against the government today is as follows:

1. The MNLF rebellion sputters on with some armed encounters against government soldiers taking place every now and then.

- 7 The Abu Sayaff is excluded from the discussion on rebel groups because it is plainly a band of holligans that is into kidnapping, murder, mayhem, rape, arson and other common crimes. The Abu Sayaff is, thus, a police matter.

Misuari, its leader, is confined in a military jail.

2. The MNLF rebellion is apparently on hold as its leadership is locked in negotiations with government emissaries. Salamat, its leader, is in hiding, awaiting the outcome of the negotiations.

Negotiating with the rebel groups is a better approach to solve the problem of the incessant Muslim rebellion in the country than simply shooting it out with them.

There are, however, negotiations and negotiations and negotiations.

The government has, through the years, tried several approaches to end the Muslim secessionist rebellions, including assimilation and integration of the Muslim people into the mainstream of the country's society. It has tried regional autonomous governments; local government devolution of power, and even military pacification campaigns. In short, the carrot and stick approach. All to no avail.

Superficial solutions

The reason why the government approaches so far have not succeeded in providing a just and lasting peace in the Muslim lands of Mindanao is that the efforts have been superficial.

The Muslims see through the superficiality of the solutions the government has thus far tried to address their grievances.

The government attempt to apply the divide and rule tactic to subjugate the Muslim people has not succeeded.

The government iron fist approach exemplified by the military pacification campaigns against the Muslim rebels has not succeeded.

The government tactic to integrate the Muslim people into the mainstream society of the country has not succeeded.

Nuanced grievance

The Muslims of Mindanao would rather die than be integrated into the social mainstream of the country for the reason that they do not wish their identity as Muslims to be erased by their integration into the mainly Christian culture of the people.

That is the principal nuance of this centuries old conflict between the Muslims of Mindanao and the governments of our country from the Spanish era to the present. It is a nuance that seems to have been consistently overlooked or even ignored by governments in dealing with the Muslim rebels.

10 Federal States

So that we do not take too much of your time, may I now suggest that if we are to address the Muslim rebellion more effectively, we must be more sensitive to the nuanced demands of their culture and traditions that have been theirs in this country at least a century before Magellan brought Christianity to our shores in 1521.

Thus, aside from expanding the powers and increasing the resources and finances already devolved to local governments by the Local Government Code, the next logical, and perhaps, the only peaceful, legal and constitutional avenue left open to those who

wish to lay down the foundations for a just and lasting peace in the Muslim lands of Mindanao and which will also speed up the economic development of the entire country is for us to adopt a federal system of government for the Republic.

Without going into actual territorial boundaries, my proposal is for the Republic to have four federal states in Luzon: Northern Luzon, Central Luzon, Southern Tagalog and the Bicol Area; three federal states in the Visayas: Eastern Visayas, Central Visayas, and Western Visayas; and three federal states in Mindanao: Northern Mindanao; South Eastern Mindanao and the BangsaMoro.

BangsaMoro Federal State

The BangsaMoro Federal State should comprise as much as is feasible all the local government areas where the Muslims predominate. In order to allow them to enhance their own culture, they should be allowed to adopt the Shari'ah for purposes of settling disputes among Muslim litigants.

The Shari'ah, however, in my view should be subject to the national Constitution's limitation that bars the imposition of cruel and unusual punishment such as lashing or caning of criminals or cutting of the fingers or arms or legs of criminals. Also, the Shari'ah should apply only to the litigants who profess Islam as their religion. If litigants are of different religions, the national law, not the Shari'ah, should apply.

The exact powers of the Federal Government, meaning the central government, and the Federal States, meaning the various states comprising the Federal Republic, shall be defined in the national Constitution.

Suffice it to say that for discussion purposes, the Federal Government may have powers over, among other things, foreign affairs, national defense, currency, federal taxes, customs and immigration, basic education, and basic justice.

Power Sharing

The Federal States may have powers over matters that are not reserved to the Federal Government, including health, agriculture, social welfare, trade, basic education, local public works, local taxation, development matters and police.

The enumeration is not all-inclusive or exclusive. In other words, the Constitution will be final repository of what powers should be exercised by the federal Republic, itself, and those powers that should be exercised by the federal states.

The Constitution may also provide that certain powers be placed under the concurrent jurisdiction of the Federal Government and the Federal States. Whoever exercises a certain power first precludes the other from exercising it as is being done in Malaysia.

Rationale for federalization

To recapitulate, the proposal to convert the Republic into a Federal Republic of the Philippines rests upon two main reasons: First, to speed up the economic development of the entire nation; and second, to lay down the basis for a just and lasting peace in Mindanao.

The experience of countries that have adopted the federal system of government seems to validate the point that there is more

leeway for countries to modernize and develop under a federal setup than if they are governed centrally.

And as far as the Muslim unrest in Mindanao goes, the Muslim traditional, political, rebel leaders and academics, with whom I had the privileged of consulting, unanimously support the idea of federalizing the Republic and creating a BangsaMoro Federal State as the only constitutional and legal means of dissipating the causes of Muslim rebellions and of laying the foundations of a just and a lasting peace in Mindanao. By federalizing the nation, we keep the BangsaMoro Federal State as an integral part of the Republic.

Models

But what model do we pattern our proposal for the adoption of the federal system? I suggest that we adopt the best features of the classical federal systems in Europe, in North America, in Australia and, of course, Malaysia and adapt them to our needs. We should not, however, close our eyes to the newly emerging federal systems in South America and in Africa. I am sure that their experiences with decentralized and federalized systems of governance may even be more relevant to our requirements than those of the established federal states.

I thank all of you for listening.

PARLIAMENTARY INQUIRY OF SENATOR FIMENTEL
(On Why the Absentee Voting Bill Should be
Passed Already)

Senator Pimentel. Mr. President, just a parliamentary inquiry.

I was of the impression that today, we will vote on the Absentee Voting bill.

Senator Leviste. Yes, Mr. President, it was scheduled today, but the sponsor requested that he be present during the Third Reading, and requested that it be read on Third Reading tomorrow.

Senator Pimentel. In view of that development, Mr. President, I have no objection to it. But if the Chair will allow me, I have to respond to some criticisms against us personally that the bill is being delayed unduly. So I think we have to put into the *Record* our thoughts on the issue, if the Chair will allow us.

The President. May that be part of the explanation of the vote tomorrow, Senator Pimentel? Can that be considered as part of the explanation, if Senator Pimentel will consider?

Senator Pimentel. Mr. President, it is more of a discourse on why the bill should be passed already.

The President. And that is why we will vote on it tomorrow afternoon. The Chair is just suggesting that it be part of the explanation of the vote tomorrow of Senator Pimentel, if he deems it, subject, of course, to his better judgment.

Senator Pimentel. Yes.

Senator Leviste. With the permission of Senator Pimentel, may I just explain, Mr. President, that we were ready to pass it on

Third Reading except that there was a request, I think, made by the sponsor of the Senate President and of myself that he be present during the time that it be passed on Third Reading. And that is the only reason why it was moved to be read tomorrow instead of last week. We could have passed it on Third Reading last week.

MANIFESTATION OF SENATOR PIMENTEL

(Insertion of His Discourse on S. No. 2104
in the *Record*)

Senator Pimentel. In which case, Mr. President, I have no desire to delay the proceedings of this Chamber. If the Chair will allow me, I will just have this prepared discourse also inserted into the *Record*.

The President. Yes, the Secretary is so directed.

*The following is the written discourse of
Senator Pimentel on Senate Bill No. 2104:*

The Absentee Vote:

The Cleansing Factor in our Electoral
Process

(Explanation of the Affirmative Vote of Sen.
Nene Pimentel on October 21, 2002)

I vote in favor of the absentee voting bill.

Constitutional mandate

I vote in favor because granting the right to vote to overseas Filipinos is mandated by the 1987 Constitution.

If we do not give them the vote, we ignore at our peril, the constitutional mandate.

I vote in favor because enfranchising the overseas Filipino is long overdue.

If we do not enfranchise them now, it would in effect be denying them justice for 15 unjust long years.

Legal nexus

I vote in favor because enabling them to vote is the legal nexus, the legal bond, the legal connection that makes them sovereign citizens of the land.

If we do not allow them the vote, they would in effect become stateless persons, the modern equivalent or the reincarnation of the fabled Wandering Jew, a rootless vagabond, without any home state he or she could claim as his or her native land.

Also to permanent residents

I vote in favor of granting the vote even to those who are permanent residents of other lands. I make of record here that I have a daughter who is a green-card holder in the U.S. I do so to comply with the rules that require us to do so.

If the proposal to recognize dual citizenship could apparently gain ground in this Chamber, then why should anyone begrudge the grant of the absentee vote to our citizens who have merely acquired permanent residency status?

Rectifying lack of representation

I vote in favor of granting overseas Filipinos the right to vote not only for the presidential and the vice-presidential candidates but also for the senatorial and the party-list candidates for Congress.

If we limit the overseas vote to the president and the vice president, we are in effect denying overseas Filipinos the right to choose their representation in Congress particularly in relation to the election of their party-list candidates. Party-list representation in Congress is a general means of rectifying the perceived lack of congressional representation of the so-called "marginalized sectors of society," in which category, under the circumstances the overseas Filipinos would certainly fall.

Granting overseas Filipinos the right to vote for senators would enable them to participate in choosing their representatives in the Upper Chamber of the legislature.

Already a compromise

Limiting the vote of overseas Filipinos to the presidential, vice presidential, senatorial, and party-list candidates is already a compromise. A compromise that is based on the practical consideration that it would result in an administrative nightmare if the vote would be immediately granted to the overseas Filipinos - at least for purposes of the 2004 elections - also for members of the House of Representatives and local government officials.

To reduce the number of officials for whom the overseas Filipinos could vote for as suggested elsewhere is to water down their right to vote for their representatives even

further for reasons that are more imaginary than real.

Eternal right under law

I vote in favor of granting our citizens abroad the right to vote for eternity as long as they comply with the requirements of the law.

To allow them to vote only in the 2004 elections and then require Congress to revalidate their right to vote by another act of Congress is an attempt to stand the presumption of regularity in the exercise of a right granted by law on its head. The presumption should be in favor of the continuing exercise of their right of suffrage pursuant to the bill under consideration once it becomes law.

If the law would subsequently need amendment, then by all means it should be amended forthwith by Congress as the demands of experience would show.

Electronic vote

I vote in favor of granting our citizens overseas the right to register and to vote via electronic means.

It is a fact of life that safeguards already exist to ensure the integrity and validity of million dollar contracts done through the Internet or electronic means. The same safeguards could very well cover the registration and voting of Filipinos overseas by electronic means.

The Commission on Elections should be allowed to do its work to forestall by appropriate rules any act that would make a mockery of the right to vote not only of overseas but of all citizens. To this end, I suggest that the Comelec take into account the provisions of certain bills now pending in the U.S. Congress that seek to upgrade and purify the election process in that country.

Against daqdaq/bawas

I vote in favor of the bill to grant overseas Filipinos the right to vote because having been a victim of *daqdaq/bawas*, I am certain that they would exercise more caution and be more careful and a lot more free in choosing the people whom they would place in positions of power in the office of the president and the vice president, in the Senate and in the House as their party-list representatives.

Having seen how good (or bad) governance affects their host countries, they could be expected to vote for people they believe would govern their home country well.

Moreover, because 2004 would hopefully be the first time their right of suffrage would be exercised, overseas Filipinos could organize themselves to help ensure that the overseas registration process and the election vote would be free of fraud and other forms of manipulation that would subvert that right. Having watched and participated in electoral exercises domestically for more than 30 years now - including the martial law years - I can say with some degree of authority that clean elections take place not only because laws and rules require the elections to be clean but

more so because the people themselves make the elections clean by their vigilance.

Free vote

I also believe that having acquired some financial independence, they would be less prone, if not totally immune, to the blandishments of peso politics.

And since they are abroad, it may be safely assumed that they could hardly be subjected to pressure, intimidation or bullying by political warlords in the provinces, cities, municipalities or barangay of the land.

Cleansing element

In brief, I believe that the overseas vote of the Filipino would be the cleansing element needed to purify our election process.

I, therefore, cast my unequivocal "yes" vote to enfranchise the overseas Filipino for the 2004 elections and succeeding ones.

It is the right thing to do.

BILL ON SECOND READING

S. No. 2116 - The Special Purpose Asset
Vehicles (SPAV) Act of 2002

(Continuation)

Senator Leviste. Mr. President, I move that we resume consideration of Senate Bill No. 2116 as reported out under Committee Report No. 41.

The President. Is there any objection?
[Silence] There being none, resumption of consideration of Senate Bill No. 2116 is now in order.

Senator Leviste. We are in the period of individual amendments. I move that we recognize the sponsor, Sen. Ralph G. Recto.

The President. Sen. Ralph G. Recto is recognized.

QUESTION OF PRIVILEGE OF SENATOR OSMENA (S)
(Secretary Gabby Claudio, PPLO Officer,
Celebrates His Birthday Today)

Senator Osmeña (S). Mr. President, before Mr. Recto proceeds, may I just say a few words on a matter of personal and collective privilege.

We have been discussing on the Floor several important bills for the past two or three months. And I would like perhaps the Senate to acknowledge that its 25th member, who is the Presidential Legislative Liaison Officer, Secretary Gabby Claudio, celebrates his birthday today.

SUSPENSION OF SESSION

So I hope that we can suspend the session to be able to greet our 25th member.

Thank you, Mr. President.

The President. The session is suspended for one minute, if there is no objection.
[There was none.]

It was 3:48 p.m.

RESUMPTION OF SESSION

At 3:49 p.m., the session was resumed.

The President. The session is resumed.

We are now in the period of individual amendments. May we know from the sponsor which version we will be using for purposes of the debates this afternoon.

Senator Recto. Well, the version as approved by the plenary insofar as committee amendments are concerned. So that would be October 16.

The President. All right. For purposes of record, the Chamber is referred to the version of the bill with the caption on the upper right hand "WITH APPROVED COMMITTEE AMENDMENTS AS OF OCTOBER 16, 2002".

All right. We will now proceed with the period of individual amendments. We do it page by page for an orderly discussion.

On page 1, is there any proposed amendment?

Senator Pimentel, on page 1.

Senator Pimentel. Mr. President, my understanding is that even at this late hour we can ask questions relative to the bill itself as well as the ramifications of its provisions for a better understanding of what the amendments might consist of.

The President. Of course, that is the privilege of any member of the Chamber but the Chair would like to request that if possible, we raise the questions in relation to a

proposed amendment that the senator would propose.

Senator Pimentel. In any event, Mr. President, I happen to believe that it is important for us to discuss the overall rationale and philosophy behind this bill for a better understanding of our people. After all, we are making this law not only for ourselves but for the people themselves.

So, if the Chair will allow us, we will begin by asking the sponsor. I understand that we have changed the initials here of the vehicle that we are discussing. Is that correct?

Senator Recto. Yes, that is right. Instead of calling it "Special Purpose Asset Vehicle," we call it "Special Asset Management Company," which I think is more appropriate. Initially, we called it Special Purpose Asset Vehicle to differentiate it from what has been done in other countries. But by and large, the more generic term would be Asset Management Company. Considering that there may be AMCs in the Philippines, therefore, we put Special Asset Management Company, referring to the objectives of this bill.

Senator Pimentel. Now, it is Special Asset Management Company?

Senator Recto. That is right, Special Asset Management Company.

Senator Pimentel. Would that have any substantial difference with the initials of SPAV?

Senator Recto. As I mentioned earlier, Mr. President, we wanted to use the name

"SPAV" only for the Philippine setting. But by and large, the practice is calling them "AMCs" or Asset Management Companies. By and large, both are the same but the more generic term would be an Asset Management Company.

Senator Pimentel. What does it intend to do, Mr. President?

Senator Recto. It intends to purchase the nonperforming assets of financial institutions and by and large, there might be two or three types of Asset Management Company. One would be interested in real estate; the other would be interested in purchasing, let us say, nonperforming loans and to rehabilitate distressed businesses and to make money out of both.

Senator Pimentel. Did the gentleman say three areas of concern for the SPAV?

Senator Recto. The third possibly would be to purchase distressed companies. These are the types of investments that SAMCs are involved in, of course, for profitable motives.

Senator Pimentel. Does the SAMC intend to benefit banks directly?

Senator Recto. Yes, to a certain degree. It will help wipe out the NPAs of the banks and therefore improve the liquidity of the banks.

Senator Pimentel. Are financial institutions also intended to be benefited by the SAMC?

Senator Recto. Yes, that is right.

Senator Pimentel. Can we have some specific examples, Mr. President?

Senator Recto. Banks, as defined under the General Banking Act, investment houses, financing companies, are examples of financial institutions.

Senator Pimentel. Can we have specifics, Mr. President, what are the banks which will benefit from the SAMC?

Senator Recto. Theoretically, all the banks, Mr. President. Commercial banks, universal banks, thrift banks, rural banks.

Senator Pimentel. That is in theory but what about in practice actually?

Senator Recto. Well, all of them. I would imagine, would have nonperforming loans, and therefore are allowed to sell their NPAs to SAMCs with certain incentives.

Senator Pimentel. Are we saying therefore that we have no idea just exactly what banks existing as of today would benefit from this SAMC?

Senator Recto. As I mentioned, the banking sector is saddled with very high nonperforming assets and nonperforming loans. It is roughly true to all the banks. But if the Gentleman is more concerned about which banks would have the highest or very large nonperforming assets, then one example would be the PNB.

Senator Pimentel. Mr. President, I am asking these questions not for my own gratification. But to place on record just exactly what banks are targeted to benefit

from the SAMC because these banks have nonperforming assets?

Senator Recto. Let me give a few examples, Mr. President, if that is the interest of the gentleman from Mindanao. I mentioned earlier the Philippine National Bank. We have the Metropolitan Bank and Trust Company, Banco de Oro, DBP, Union Bank, Security Bank, Bank of the Philippine Islands, Al Amanah Islamic Bank, Export and Industry Bank, UCPB, Philippine Bank of Communications, Philippine Veterans Bank, Bank of Commerce, Global Bank, Land Bank, Prudential Bank, Allied Bank, May Bank, Rizal Commercial Banking Corporation, Equitable PCIBank, just to name a few, Mr. President.

Senator Pimentel. Mr. President, I think the people deserve not a few but a full accounting of the banks that are intended or could probably benefit from this SAMC. The problem is, if we try to select a few, suspicion could arise that we are omitting the names of some banks so that they may not be placed on record from which our people can refer to easily to see how our debates here on this issue are truthfully reflecting the situation as far as the banking community is concerned.

Senator Recto. Precisely, Mr. President.

Senator Pimentel. So, I would suggest that the sponsor read totally the list of the banks that would be benefited by this SAMC to obviate that possibility of suspicion arising in the minds of our people.

Senator Recto. If the concern of the gentleman is the banks that could benefit, then I answered that earlier--all the banks could benefit.

Senator Pimentel. No. But we are singling out the banks which have nonperforming assets.

Senator Recto. All the banks have nonperforming assets. Mr. President.

Senator Pimentel. I do not think that is a sufficient answer. I think our people deserve a more candid exposition of the banks that have nonperforming assets, and of course, what are these assets? I think we deserve to put all of these things into the *Record* so that we have a full disclosure of what we are trying to do through this means of the SAMC.

Senator Recto. Mr. President, the BSP has indeed submitted a list of nonperforming loans of banks. The list is available. I think last week and the week before during the period of interpellations, I did mention most of the banks which have very large nonperforming assets, and if the gentleman would want me to repeat that, I could repeat it.

Again Al Amanah Islamic Bank; Export Industry Bank. Al Amanah has P8 million in nonperforming loans. The Export Industry Bank has P10 billion. Philippine National Bank has P50 billion. United Coconut Planters Bank has P21 billion. Philippine Bank of Communications has P6.7 billion. Philippine Veterans Bank has P1.7 billion. Bank of Commerce is P3.5 billion; Global Bank is P8.9 billion; Land Bank is P28.8 billion; Prudential Bank is P4.6 billion; Allied Bank is P9.2 billion; May Bank is P1.3 billion; RCBC is P17 billion; Equitable Bank is P28 billion; International Exchange Bank is P3.1 billion; BFI is P26 billion; Security Bank is P5 billion; Union Bank of the Philippines is P3.5 billion; DBP is P10.8 billion; China Bank

is P5.9 billion; Philippine Trust Bank is P2.3 billion; Metropolitan Bank is P20 billion; East West Bank is P1 billion; Banco de Oro is P6 billion; Asia United Bank is P577 million. That is a total of about P278 billion just with regard to nonperforming loans. All these banks I mentioned have a total of P173 billion in ROPOAS.

Senator Pimentel. Before we go to the ROPOAS, Mr. President, kindly put on record the nonperforming loans of the PNB. Whose loans were these, to begin with?

Senator Recto. Nonperforming loans is roughly at 52%. There is a list of these. I will be glad to share this with the gentleman from Mindanao.

Senator Pimentel. No, Mr. President, do not share it with me; share it with the records in our discussion.

Senator Recto. Yes, I share it with the record; that is the intent of the sponsor.

Senator Pimentel. Yes, so.

Senator Recto. And I do want to share that with the record.

Philippine National Steel is one of the bigger NPLs with the PNB as well.

Senator Pimentel. Yes. I am not asking about percentages. I am talking of what are these NPLs? Who benefited from these NPLs? Who were the borrowers of the NPLs?

Senator Recto. Again, Mr. President, I submit the entire list of BSP to the committee or to the plenary for the record. If the

plenary wishes to have it printed in the *Journal*, that is fine with me.

Senator Pimentel. No. I am asking that the sponsor do so as part of our discussion, Mr. President.

Senator Recto. Yes, and I am willing to do so, Mr. President.

Senator Pimentel. Please proceed then, Mr. President.

Senator Recto. What is the question, Mr. President?

Senator Pimentel. As I said, the NPLs of the PNB. Who were the borrowers and the amounts that the borrowers...?

Senator Recto. That is P50.8 billion, Mr. President. I am willing to submit that for the record with whatever documents the BSP submitted to us. It may be difficult for me to read the entire list because this would amount to millions of borrowers.

Senator Pimentel. Mr. President, I think there is an attempt not to be transparent about this thing and I am sorry to say, to put on record that that is my observation in light of the gentleman's replies.

Senator Recto. That is not fairly accurate, Mr. President, that with that, we do not want to be transparent about it.

As I said, as part of the record, the BSP submitted already this list to the Senate and I think it should be reflected in the *Journal*.

Senator Pimentel. What record, Mr. President?

Senator Recto. Senator Osmeña, I think, two weeks ago requested these documents from the BSP, and the BSP has complied and submitted up to 72%, even if it has a difficulty of getting the balance of 28%. So again, subject to the BSP's completion of the data, for the meantime, let all these records be part of the proceedings of the Senate, the 72%, and we can wait for the BSP to submit the remaining balance of 28%.

Senator Pimentel. Yes. In which case, we should wait for that balance to be presented to us before we proceed with this discussion, Mr. President, because I really believe it is important that we spread on the records just exactly who these borrowers were of the nonperforming loans of PNB. I am only starting with PNB, and the amounts that have been nonperforming through the years.

But if the sponsor says that we will have to wait for the completion of the records of the BSP, by all means, let us do that. But that means we will have to put an end to this discussion and probably talk about it at a more appropriate time, when the sponsor has the records that we want.

SUSPENSION OF SESSION

The President. With the permission of the Chamber, the Chair declares a one-minute suspension of the session, if there is no objection. *[There was none.]*

It was 4:04 p.m.

RESUMPTION OF SESSION

At 4:19 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

Senator Leviste. Mr. President, Senator Pimentel has so kindly yielded the Floor but still wishes to reserve for the period of individual amendments. In the meantime, I ask that Sen. Joker P. Arroyo be recognized for his individual amendments.

The President. Sen. Joker P. Arroyo is recognized.

We are on page one. Are there any amendments on page one?

Senator Arroyo. Thank you, Mr. President. For individual amendments, I do not have anything on page one.

The President. So, if there are no more amendments on page one, we may proceed to page 2.

Are there individual amendments on page 2?

Senator Arroyo. I have no amendments on page 2, Mr. President.

The President. No individual amendments on page 2?

All right. Senator Biazon has an amendment on page 2, coming from the hallway.

Senator Biazon is recognized.

Senator Biazon. Yes, Mr. President. Thank you.

Senator Osmena (S). Point of clarification, Mr. President.

The President. Before Senator Biazon proceeds, Senator Osmena is raising his hand. May the Chair know the pleasure of the gentleman from Cebu?

Senator Osmena (S). Just a point of clarification, Mr. President.

I just received an October 16th draft when we have been working on the October 15th draft. May we continue to work on the October 15th and just use the October 16th as a guideline? Otherwise our lines....We have the same problem.

Senator Recto. If the gentleman will recall, last week we adopted certain committee amendments on October 15 and we closed the period of committee amendments on October 16.

Senator Osmena (S). I see. So, this is the latest and we will be using this as the working draft.

The President. Yes, as earlier manifested.

Senator Recto. There is not much difference between the two versions. Only with the exception of an amendment made by Sen. Serge R. Osmena III himself.

Senator Osmena (S). All right. Thank you, Mr. President.

The President. Senator Biazon may proceed to page 2.

Senator Biazon. Yes, Mr. President.

Starting on line 16, Mr. President, this representation proposes the deletion of the following government-owned or -controlled

corporations: NATIONAL HOME MORTGAGE FINANCE CORPORATION (NHMFC), HOME GUARANTY CORPORATION (HGC), HOME DEVELOPMENT MUTUAL FUND (HDMF), SOCIAL SECURITY SYSTEM (SSS), GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS). All agencies that have something to do with socialized housing.

Senator Recto. Mr. President, initially, the committee forwarded that all GOCCs be incorporated in this bill to benefit from this measure itself. Senator Osmena (S) wanted to limit it to what has been mentioned. So, we did accept amendments by Senator Osmena (S). I think it is very possible that Senator Osmena (S) may object as well to the deletion of the...

Senator Biazon. Yes, that is the right of Senator Osmena (S), Mr. President. But I have also the right to raise these issues.

Senator Recto. Yes, Mr. President. I just wanted to put that on record. In fact, there is a move to put the National Housing Authority as well.

Senator Biazon. Mr. President, may I just explain.

The President. All right, yes.

Senator Biazon. The National Home Mortgage Finance Corporation (NHMFC), the Home Guaranty Corporation (HGC), the Home Development Mutual Fund, the Social Security System, and the Government Service Insurance System are deploying part of their investable funds to this investment through socialized housing. This is the reason I asked for a list of all the loans made to these agencies of funding deployed for socialized housing.

Mr. President, my fear is that with the entry of the SAMCs and allowing these agencies to sell their nonperforming assets or loans to the SAMCs, we could affect very greatly the socialized housing program.

Let me illustrate, Mr. President. If I am any of these government-owned or-controlled corporations and I have socialized-housing units or projects that are not sold because of some anomalous transactions in the past. For example, there is a report that about 120,000 to 125,000 units of socialized housing are not sold for the past 10 years to about 5 years. Meaning, there is this large or huge amount that is sleeping out there. So that we can dispose of this, we can think of the SAMCs.

But the problem, Mr. President, is this. With the entry of SAMCs and entry of big corporations into the system, they may speculate by buying these huge projects and converting them into something else. From socialized housing, they may convert it in order to raise the value of the property, to say, business centers, commercial centers and whatever. And where will our socialized housing programs go? This is the fear that I entertain--that through speculations our socialized-housing programs will be demolished.

If, however, the sponsor is willing to provide certain conditions, for example, that these agencies may sell these nonperforming loans, provided that the project will not be converted into anything else but will still continue to be utilized for socialized housing. Subject to style, Mr. President.

Senator Recto. Mr. President, to respond to the observations or fears of the gentleman. Again, let me point out that the gentleman is

right when he said that possibly there are about 120,000 units that are not being sold. And precisely all the more we need this particular measure so that the SAMCs may be able to liquidate with these housing agencies, to improve the cash balances of these housing agencies. They would now be able to sell these and will be able to liquidate. Their resources now are larger for them to invest in socialized housing. That is the first point.

The second point, Mr. President, is, now that the SAMCs will have these properties, for example, there are already existing laws on conversion, so on and so forth. By and large, these SAMCs will offer these houses to the original borrowers, if there were original borrowers to begin with, at a discounted price because the SAMC would have purchased these, more or less, anywhere from 30% to 50% of the original value of these houses.

So, we hit two birds with one stone, Mr. President. The first is, the lending agency will now have more resources for it to spend for housing, that is one; it would be able to convert these nonperforming assets into cash at present. So, it would have more resources to spend for socialized housing.

Second, the SAMCs which are asset management companies would, in turn, because of tax-free privileges, offer these houses at a cheaper price for the intended beneficiaries of our socialized housing project, tax-free.

The President. So the socialized-housing concept will be maintained.

Senator Recto. It will be maintained.

The President. Even if these nonperforming assets are already in the hands of the SAMCs.

Senator Recto. Precisely. That is precisely the point.

Senator Biazon. Mr. President, first, the tax-free component of this system will not come into play because right now socialized-housing projects are tax-free. And so, it is not going to benefit from that component of the proposal.

Now, second, Mr. President, the fact that if I am an investor through the SAMCs, I am going to pay for the purchase of these nonperforming assets. And definitely, if I am a foreign investor, I will not, through the goodness of my heart, take losses in order for us to continue maintaining the socialized-housing programs. I am coming into the system for profits, pure and simple, Mr. President.

So, if we do not put that condition in the nonperforming assets to be bought from these government-controlled or semi-government-controlled corporations, we are going to witness speculative moves on the part of the buyers of these nonperforming assets from these housing agencies and convert these into something else. If, however, that condition is put into the law, then probably I can agree to the inclusion of these agencies into the bill.

But what we cannot have, Mr. President, is foreign or even domestic capital coming into the system, purchasing housing projects and through speculative moves, convert them into something that will give or provide them with huge profits. And that cannot be, as a matter of fact, anywhere near socialized housing.

The President. Sen. Sergio R. Osmena wishes to take the Floor, with the permission of the two gentlemen.

Senator Osmena (S). Yes, may I just explain. With the permission of the distinguished sponsor and the Senator from Muntinlupa, let me just explain, Mr. Chairman. Originally, what was in the committee report was the phrase "government-owned or controlled corporations." This representation sought to limit that because there is something like 100 or 200 government-owned and controlled corporations and it will be very difficult for the Department of Finance or whoever would be regulating to follow to make sure that there are no abuses. So, we limited it to the big ones who have nonperforming loans.

I have absolutely no problem if the gentleman from Muntinlupa would craft an amendment that would ensure what is low-cost housing today and the security for a nonperforming loan will not be converted into any other use.

Senator Biazon. Yes, I would agree to that, Mr. President. As a matter of fact, it is not entirely removing from the list these corporations because some of these corporations have investable funds that are not really....All of the investable funds of these agencies are not deployed for socialized housing. For example, GSIS and SSS have only 30% of their investable funds that can be invested in socialized housing. Of course, we need to examine that because there is a tendency for some of these government-owned or controlled corporations to go beyond the provisions of their charter. We have seen this many times.

So, subject to style, Mr. President, if the sponsor will accept the crafting of a provision that would exempt nonperforming assets that are deployed to socialized housing or at least put a provision that will say that these investments deployed for socialized housing when bought by the SAMCs and, subsequently, bought by purchasers from the SAMCs should not be converted into any other project except for socialized housing.

The President. What does the sponsor say to that?

Senator Recto. That would take away the flexibility of the SAMCs, to my mind. I think there are adequate safeguards as far as the other laws are concerned and the Local Government Code as far as converting residential areas into commercial establishments are concerned. I think it would be best to make the market dictate how the SFAV or the SAMCs would invest their resources. But to limit their flexibility may be difficult, Mr. President.

Now, if the gentleman would like to propose an amendment later on after a careful thought, maybe in a day or after carefully considering the options, the sponsor may be inclined to accept the amendment, but only after the gentleman has already proposed the words for his amendment.

Senator Biazon. Mr. President, let me illustrate further, if I may.

There is a piece of land in Tandang Sora that was purchased by the Senate employees for their housing needs. This has something to do with a piece of land that was foreclosed by the Philippine National Bank. More than a

thousand poor employees of the Senate are the beneficiaries of this project.

Now, there was an attempt by some sectors to convert this land into something like Himlayang Filipino. Instead of earning only a few million, they would be earning more than P100 million. So, this is simply buying the property--parang SAMC operation na ito. And then the owner of the land is promising a replacement of the land up there in the boondocks. Definitely, our poor Senate employees....I tried to initiate this project and we were able to get it. This is exactly what could happen to this socialized-housing project especially so if big capital is coming in. They are not going to deal with these nonperforming assets if we have this in the law--to protect the socialized-housing program of the government.

Senator Recto. Mr. President, based on the example given by the gentleman from Muntinlupa, he mentioned a particular property that was foreclosed by the FNB. He did not mention if that property was already for socialized housing, to begin with. Was it a foreclosed property of the FNB that was really intended for socialized housing to begin with?

In that case, based on the example, the SAMC were the Senate employees themselves who purchased it? It is the Senate employees who purchased this foreclosed property from the FNB. So I do not see the relationship between the SAMC in this bill.

Nevertheless, again, if the gentleman would be able to articulate the language for his individual amendment at the proper time, after the discussion, maybe I might not have any objections to that.

But my only concern at this point is, if we put too many limitations on the flexibility of the SAMCs on the type of investments that they make, then maybe we would not be able to attract these SAMCs to invest in the Philippines in reducing the NPAs of our financial institutions, including the NPAs of government-owned and controlled corporations and government financial institutions, especially considering the environment today. We have bombings in Mindanao, in Metro Manila. Even in the United States, consumer spending is down. There is gloom in the U.S. economy itself. So, if we were to limit the flexibility of these investors in determining where they can make a profit, it may defeat the purpose of the bill.

Senator Biazon. Mr. President, I could care less what the commercial banks, the universal banks may do with their NPAs. I could care less for other government-owned and controlled corporations such as the Small Business Guarantee and Finance Corporation (SBGFC) or the TLRC. I think TLRC should also be examined. Livelihood Corporations should also be examined because these agencies are focused on helping out the small Indians, the small corporations, the small-and-medium entrepreneurs. If we get this thing open to foreign investors, we will lose, I assure the gentleman.

For example, the reason the Senate employees were allowed to prevail in the transaction and not converted it into a more profitable venture, such as a private *Himlayang Filipino*, was that this representation prevailed over the owner by saying that there could be a backlash from the urban poor. So, the intended purchaser backed off and allowed the small employees of the Senate to own the property.

Mr. President, I have nothing against the other provisions of the bill, except that I would like the socialized-housing concerns of this country be protected.

The President. Anyway, the impression of the Chair on Senator Recto's manifestation is that he is not totally averse to this. He just wants to see how the proposed amendment is exactly worded. The sponsor would like, if it can be proposed overnight, to take a close look at it. The Chair may suggest that Senator Biazon craft the individual amendment that he has proposed and present it on the Floor tomorrow. At that point, maybe an advance copy can be given to the sponsor so that the debate can be shortened.

Senator Biazon. Yes, Mr. President. Relative to this, in the very beginning of the discussions on this issue, I asked for the submission of the list of nonperforming loans in the hands of the National Home Mortgage Financing Corporation, Home Guaranty Corporation, the Home Development Mutual Fund or Pag-IBIG, Social Security System, Government Service Insurance System, including the National Housing Authority, et cetera. What I got was only a partial list, Mr. President.

If I may get a list of this, maybe we can help craft the proposed amendment to this bill. But until now, I have received a partial list. It is not even complete; it is not even clear. I am still waiting for its submission, Mr. President.

Senator Recto. Mr. President, just a response to that. Yes, we have instructed the agencies concerned to coordinate and to submit all these data requested by Senator Biazon.

Senator Biazon. Yes. As a matter of fact, I received a partial list. A partial list does not satisfy my requirement, Mr. President. I need the complete list.

The President. It is suggested by the sponsor that Senator Biazon or the staff come up with a proposed amendment--putting forward the idea that if the NPAs consist of socialized-housing projects, it should maintain the character of being socialized-housing projects.

It is the understanding of the Chair that the sponsor is not exactly averse to the idea. He just wants to see how it would be crafted so that he can express his view.

Senator Biazon. Thank you, Mr. President.

May I repeat, I will only be ready to propose the amendment until I get the complete list.

The President. Well, we will take it at that point.

Senator Biazon. With that, Mr. President, I am ready to sit down.

The President. Thank you, Senator Biazon.

Senator Biazon. Thank you, Mr. President.

The President. Sen. Serge Osmena III is recognized.

Senator Osmena (S). Yes, Mr. President.

Apropos of the proposal put forth by the Senator from Muntinlupa, I think what is before this Chamber is rather an important policy question.

Mr. President, we should be reminded that any good investor always looks for the highest and best use for his property. No one puts up a one-storey building at Ayala Avenue when what is economically feasible is a 60-storey or a 50-storey building.

But there are pockets, there are special situations wherein the government—local or national—will have given a site that is in the middle of an upscale community like say in Fort Bonifacio for low-cost housing purposes. Now, if it so happens that this low-cost housing project in Fort Bonifacio, in Taquig, or in Makati, is in trouble and the non-performing loans are sold, that probability is, whoever would buy that would convert it into a higher and better use. That is the rule.

And I hope that the Chamber will take into consideration that anything that has already been developed for low-cost housing should remain low-cost housing as an exception to the free-market forces that we all try to promote.

But as far as low-cost housing is concerned, several projects may be affected whether in Manila or Bacolod or Cebu City, or Davao, because certainly, many of those low-cost housing projects inside the urban area, inside the better, the more upscale districts would definitely be utilized by the SAMC or whoever buys the nonperforming loan or nonperforming assets from the SAMC for a higher and better use which would mean displacement of low-income workers, and more problems in the urban areas among the urban poor communities.

So I hope this Chamber can deliberately make a policy decision based on the proposal of Sen. Rodolfo G. Biazon that we should not

touch what has already been set aside for low-cost housing.

Thank you, Mr. President.

The President. All right, we are now on page 2 for any other amendment?

DRILON AMENDMENT

The Chair just wishes to make an editorial amendment on lines 11 and 16 before the word "LIMITED", insert the phrase WHICH FOR PURPOSES OF THIS ACT COMMA (,) SHALL BE on both lines. I repeat. So line 11 will read: "Government financial institutions (GFIs), WHICH FOR PURPOSES OF THIS ACT, SHALL BE LIMITED TO..." The same amendment on line 16. Just an editorial amendment.

Senator Recto. It is accepted, Mr. President.

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

Page 3? Maybe the Majority Leader can assist the Chair. We are now on page 3. If the Majority Leader can please guide the Chamber in the amendment.

Senator Leviste. Mr. President, there are no amendments on page 3; no amendments on page 4; no amendments also on page 5; no amendments on page 6; no amendments also on page 7. Page 8, Senator Arroyo wishes to make individual amendments.

The President. Page 8, Senator Arroyo is recognized.

ARROYO AMENDMENT

Senator Arroyo. Yes. Mr. President, let me precede my amendment with an explanation which I conveyed earlier to the sponsor informally.

There are already existing corporations which, for all intents and purposes, are already SAMC, only that they are not called "SAMC".

So, my amendment would be to formalize those existing corporations which have not yet been considered as SAMC.

So, I propose that on page 8, between lines 20 and 21, we insert either a new section or whatever, which would read as follows:

CORPORATIONS ESTABLISHED IN THE NATURE AND FOR THE PURPOSE OF SAMC BEFORE THE EFFECTIVITY OF THIS ACT SHALL QUALIFY AS SAMC IF THEY CONFORM OR WILL CONFORM TO THE REQUIREMENTS FOR SAMC AS PROVIDED FOR IN THIS ACT.

The President. What does the sponsor say?

Senator Recto. Yes, Mr. President, I have no problem with that amendment. But by being silent about it, would that not apply as well?

Senator Arroyo. I would rather, Mr. President, that it is clear because there are some SAMCs already existing. Anyway, the purpose of the amendment is just that they can conform to this.

Senator Recto. It is accepted, Mr. President.

The President. All right. Yes, Senator Osmeña (S).

Senator Osmeña (S). May I just be clarified by the proposed amendment. I have no objections to it. But we call this the "Special Asset Management Company". Therefore, the proposal then of the Senator from Bicol would be to convert or to allow for a way for the existing asset management companies to become special asset management companies. How would that then work in the mind of the sponsor?

Senator Recto. Precisely, my point is that if there are existing AMCs today, they do not enjoy any of the perks provided for under this Act or under this bill. Once this bill becomes law and the implementing rules and regulations are put in place, then these companies, if they act as SAMCs and they follow what is prescribed here in the bill, can benefit from the incentives and privileges given by this law.

Senator Osmeña (S). So...

Senator Recto. That is why my initial position was that there is no need to put that section because by operation, they would qualify. But if the gentleman from Makati and Bicol would like an explicit provision on that, then I will have no further objection.

The President. All right. So, is the sponsor accepting the proposed amendment of Senator Arroyo?

Senator Recto. Yes. Could I request the Secretariat again to read the amendment just to be...?

Senator Arroyo. Mr. President, subject to style, because the sponsor knows more [Laughter] about this Act.

The President. So, subject to style, the substance is known to the sponsor. Does the sponsor accept the amendment?

Senator Recto. It is accepted, Mr. President.

The President. What is the pleasure of Senator Magsaysay?

Senator Magsaysay. For page 9. Mr. President.

The President. All right. Is there any objection to the Arroyo amendment, as accepted by the sponsor? [Silence] There being none, the amendment is approved.

The Majority Leader.

Senator Magsaysay. Yes. For page 9, line...

The President. The Majority Leader, is there no amendment on page 8?

Senator Leviste. There are no more amendments on page 8, Mr. President.

Page 9, Mr. President, Senator Magsaysay.

Senator Magsaysay. This is a very clarificatory amendment. On page 9, lines 20 to 21, delete the phrase "OF THE NPLs" and in lieu thereof, insert the phrase WHOSE LOANS ARE SECURED BY THE NPLs TO BE TRANSFERRED.

Senator Recto. Could the gentleman read how the intended section would be?

Senator Maqsaysay. The intended Section will then read as follows:

"SEC. 11. *Notice and Manner of Transfer of Assets.* - (A) NO TRANSFER OF NPLs TO A SAMC SHALL TAKE EFFECT UNLESS THE FI CONCERNED SHALL GIVE PRIOR NOTICE THEREOF TO THE BORROWERS WHOSE LOANS ARE SECURED BY THE NPLs TO BE TRANSFERRED AND ALL OTHER PERSONS HOLDING PRIOR ENCUMBRANCES...."

Senator Recto. It is accepted, Mr. President.

Senator Maqsaysay. Thank you.

The President. Is there any objection?

Senator Osmeña (S) is recognized.

Senator Osmeña (S). I am very sorry. I could not hear. What was the amendment of the gentleman from Zambales?

Senator Recto. May we request the Secretariat to read the amendment?

The President. Maybe the gentleman from Zambales can read it. It is a little difficult for the Secretariat to go over the previous notes.

Senator Maqsaysay. Well, this is simply to clarify an otherwise hazy term. The original term is line 20, page 9: "SHALL GIVE PRIOR NOTICE THEREOF TO THE BORROWERS OF THE NPLs. It is not the borrowers of the NPLs; rather, it is the borrowers whose loans are secured by the NPLs.

Senator Osmeña (S). The NPL is a loan.

Senator Magsaysay. Yes. So, what we are saying is NO TRANSFER OF NPLs TO A SAMC SHALL TAKE EFFECT UNLESS THE FI CONCERNED SHALL GIVE PRIOR NOTICE THEREOF TO THE BORROWERS WHOSE LOANS ARE SECURED BY THE NPLs TO BE TRANSFERRED AND ALL OTHER PERSON HOLDING PRIOR ENCUMBRANCES.

The President. Whose loans are secured by the NPLs.

SUSPENSION OF SESSION

Senator Osmeña (S). Mr. President, I move that the session be suspended for one minute.

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

It was 4:56 p.m.

RESUMPTION OF SESSION

At 5:01 p.m., the session was resumed.

The President. The session is resumed.

Senator Recto. Mr. President, I think Senator Magsaysay has withdrawn his amendment.

The President. The amendment is withdrawn.

The Majority Leader is recognized.

Senator Leviste. Mr. President, Sen. Joker P. Arroyo wishes to make an amendment on page 9.

Senator Arroyo. Mr. President, my proposed amendment is on page 9, starting with line 28, continuing to page 10, lines 1 to 4, inclusive. What I seek to amend is actually

to restore what was in the original committee amendment which I felt was a good provision but was deleted, and it reads, starting on page 9, line 28:

Provided, That the debtor and the Financial Institution shall be given a period of at most ninety (90) days upon receipt of notice to restructure or renegotiate the loan or reacquire the properties under such reasonable terms and conditions as may be agreed upon by the debtor and the Financial Institutions concerned.

Mr. President, I do not know why this provision was deleted when it gives both the borrower and the financial institution a last clear opportunity to talk among themselves and see whether they could still settle the obligation rather than immediately put it within the operation of SPAV. My respectful submission is that no prejudice will be a cost to anyone, not the bank, not to anyone, if this is restored.

The President. What does the sponsor say?

Senator Recto. Mr. President, the gentleman from Bicol was correct when he said that in the original committee report this was included. After deliberating with some members of this Chamber, it was also pointed out to me that this may be construed to redefine the relationship between the FI and the borrower. In any event, in most cases, there is a continuing communication between the FI and the borrower for restructuring and renegotiation of the loans. Maybe some financial institutions even do it at a longer period of ninety days.

Senator Arroyo. Well, it is entirely up to them.

The President. But does this not involve assets that have been already consolidated with the financial institutions?

Senator Arroyo. This is only for NPLs. What we are talking here is about NPLs which have not yet been foreclosed. Why not give everyone a chance?

Senator Recto. I will have no objections, Mr. President.

Senator Osmena (S). Mr. President, I have to object. This was a major issue the last six weeks.

As we see, we have to divide the NPAs into two--NPLs and ROPOAs. Essentially, the ROPOAs are finished. Tapos na. The ROPOAs, we can divide into what has already gone past the one-year redemption period and ROPOAs that have been reported as they are reported by the banks whose redemption periods have not yet expired. Kung may redemption period pa iyan, di siyempre nagne-negotiate pa sila. Why will we add another 90 days? This would violate the rights of the lender already in this case under the law.

So we will go to the NPLs. The NPLs are a continuing thing, Mr. President. We do not even have to mandate 90 days. The first party that would be interested in buying the NPLs would, of course, be the borrower himself. He would have the most advantage in bidding for his own NPL or in trying to negotiate to purchase his own NPL.

But here is a problem that most people do not foresee. When a bank decides to sell an

NPL, Mr. President, it packages this. The banks package probably several loans together. No one is going to buy most SAMCs. The deep pocket SAMCs do not usually buy an NPL for US\$5 million or US\$10 million. They will probably package the NPLs in bunches of US\$30 million, US\$40 million or US\$50 million which means several NPLs in one package. Why will we make it difficult now for the banks to package those NPLs simply because they now have to go back and renegotiate?

Mr. President, like I said, the banks are interested in getting rid of their NPLs today if possible; yesterday, if it were possible.

Therefore, there is no necessity for this except to further delay by another 90 days the possible sale of the NPLs.

This bill has been pending here for some months; the negotiations have been going on. As a matter of fact, many are already in what they call "reorganization" before Regional Trial Courts.

That is why, I have to object, Mr. President, because this mandates another 90 days when, and we have to read the previous sentence, because this does not make sense without the previous sentence which is on lines 25 to 28 of page 9, and it reads: "The Financial Institution that is transferring its NRAs to a SPAV"...

Here we go, Mr. President. They have negotiated already probably with the SPAV or SAMC for four to six months. They have packaged several NPLs in one package and then now that they are about to transfer, they go back to the individual borrowers of the NPLs. Di magkakaqulo uli, because that will change the valuation of the package. We should not

do that because we do know that when somebody has a nonperforming loan, the negotiations with the lenders are practically constant. The borrower is trying to take his security out, and the creditor also wants to get paid.

So for that reason, Mr. President, I think that this would really drive a spanner in a smooth transition from NPLs of FIs and their sale to the SPAV.

The President. All right.

Senator Arroyo. Mr. President, the argument of Senator Osmeña is one of delay, but my argument is anchored on giving the borrower a last clear chance because in Section 11, lines 18 to 28 on page 9, it reads: NO TRANSFER OF NPLs TO A SAMC SHALL TAKE EFFECT UNLESS THE FI CONCERNED SHALL GIVE PRIOR NOTICE THEREOF TO THE BORROWERS OF THE NPLs AND ALL PERSONS HOLDING PRIOR ENCUMBRANCES UPON THE ASSETS MORTGAGED OR PLEDGED. SUCH NOTICE SHALL BE IN WRITING TO THE BORROWER BY REGISTERED MAIL AT THEIR LAST KNOWN ADDRESS ON FILE WITH THE FI AND BY PUBLICATION IN A NEWSPAPER WITH NATIONAL CIRCULATION.

Mr. President, we are talking here of NPLs not yet foreclosed assets.

So here is a borrower who receives a notice. So when he receives a notice, what happens? If this provision was not deleted, then here is the borrower who goes now to the FI and says, "I still have 90 days, let us talk." Perhaps, nothing will come out of it. But supposing the few among those who talked would be able to make an arrangement. There are some banks that are good; there are some banks that are not good.

Mr. President, we were given a long list of all these borrowers. Over the weekend, I started to go over these one by one and I came to the conclusion that they were not exactly bad. They started good perhaps; they started well. Now, they were overtaken by events or whatever. I think most of these were in the 1977 financial crisis, so they could not pay. But these companies have contributed no matter what--infrastructure and businesses. It is there.

Now, we cannot say that they did not do something. It is just that it is their misfortune that they cannot pay and they will pay a price. We ask now: What is 90 days, three months? Will the banks bleed because of that?

To begin with, Mr. President, we go back to an argument which I do not want to use over and over. As they say, "It takes two to tango." If the banks did not lend these people or corporations these kinds of loans, we will not have this problem. But the problem is that these loans have securities. Some banks gave clean loans and they cannot go after anyone. But since these corporations have mortgages, the only thing this bill has--and which it originally intended--to give 90 days, I think should be restored because no one will be.... If we are only talking about delay for the banks, I mean, we are giving the banks already so many incentives. We have not given one single incentive or benefit to the borrower. Let not this country have the reputation that is very cruel to borrowers. Very nice to banks. Many of our banks are now having problems...is also a measure of their performance that they did not do well.

That is about all that I would like to state, Mr. President. No one will be

prejudiced by this amendment. In fact, it was in the original committee report after public hearings and this came out like that.

Mr. President, one morning, a borrower will get this notice. True, as Senator Osmeña puts it that there is a constant communication between a borrower and the bank. But just the same, only when the moment of truth comes, and which is when there is a written notice to him, that his loan will now be sold to SPAV and his name will be published in a newspaper of national circulation with a humiliation that goes with it. So perhaps he will do something. We do not know.

So that is my respectful submission, Mr. President.

The President. All right.

Senator Arroyo. I mean, the sponsor originally agreed to.... This was the idea of the committee, Mr. President.

The President. Yes, but there is an objection from Senator Osmeña.

Senator Osmeña (S). Mr. President, first, this is one of the additions that were not in the original bill or discussed during the hearings to which this representation had voiced his vehement objections. So I will repeat those objections today.

But, Mr. President, I am really surprised how we can go to several weeks of debate on this committee report and still not make people understand who benefits from this bill. And if they refuse to see it, the way it is, then there is nothing we can do.

But, Mr. President, the main purpose of this bill is to reduce the friction cost attendant to transfer of properties whether real estate, or loans, or whatever in order to bring more dynamism and liquidity to the financial markets.

Now, who benefits from this bill, Mr. President? Under the law, it is the seller that has to pay either capital gains tax, or value-added tax in sale of real estate properties held in inventory, or withholding taxes.

The President. All right.

Senator Osmeña (S). More or less, that will go from 10 to 17%--to 16%. Ang makikinabang po rito, unang-una ay ang borrower who is transferring his asset to the financial institution, that is step one. And then the financial institution also gets a break from friction cost when and if he transfers his nonperforming asset whether it be in the form of a ROPOA or a nonperforming loan to either a SAMC or any Filipino, iyon ang second break. And then, the third break, Mr. President, is when the SAMC transfers any of the assets to a final buyer.

There are as many as three, two possible, if the financial institution sells the NPAs directly to a final buyer--any Filipino. However, there was an extra break for somebody who wants to organize the SAMC because he has got big pockets and he is willing to take the risks. He is willing to go through a reorganization process to hold those assets and sell these at a later date and still be exempt from friction taxes.

I do not see where....This is only a pro-banking bill. It is impossible. But we can

talk until we are blue in the face but if the gentleman from Makati does not want to see it the way it is, there is nothing we can do.

Now, Mr. President, again as to the restoration of what was in the May 7 committee report, first, I objected because this was not a subject that was taken up during the hearings.

If the gentleman from Makati would like to make it an individual amendment later on, then we can debate it but since he brings it up at this time, I will again please try to explain.

Mr. President, I have nothing if the gentleman from Makati wants to say. Upon the passage of this bill, all borrowers who have nonperforming loans are hereby given 90 days to restructure. Okey lamanq iyan.

What I object to--because the way this is worded, Mr. President--is that if I were the financial institution and I am negotiating with the SAMC for the sale of borrower A's, borrower B's, borrower C's and borrower D's nonperforming loans as one package, those negotiations take a long time. Valuations are subject to objective and subjective judgments. Pinaqhirapan na ito paqkatapos matatapos na iyong negotiation which might take three months, six months or nine months, and then in comes a *colatilla* that: "Wait a minute. Go back to the original borrower first."

Therefore, the SAMC will probably just walk away. Kasi, "Ano ba ito?" If the 90 days, if we want to give the borrower a break, if the intention is to give the borrower 90 additional days, then put it at the beginning of the effectivity of the acts so that there is a blanket notice to all borrowers who have nonperforming loans: "Okay, guys, you got 90

days after which I will be free to negotiate which might be a long, tedious affair. All I have to do now is to give you notice under Section 11, that it has been transferred."

This is my objection to the bill that makes it very, very difficult for the financial institutions to package loans for sale to sophisticated investors if at the last minute there has to be a 90-day.

Senator Sotto. Mr. President.

Senator Sotto. Sen. Vicente C. Sotto III is recognized.

Senator Sotto. Mr. President, we have been listening closely to both perspectives and we do agree that they are both, shall I say, very correct to my understanding.

To avert a possible division of the house on this issue and the possibility of the two accepting a proposal, may I suggest that we accept the proposal that we again include the *PROVIDED* from page 9, line 28 to line 4 of page 10, but replace the word "SHALL" with MAY. This would probably be able to answer the concerns of Senator Arroyo but also avert the delay. That is the point of Senator Osmena (S), in some cases. It could be a case-to-case thing. In other words, the debtor or the FI may, if it wants to, and does not have to. They are not mandated to do so.

The President. All right. There is an amendment to the Arroyo amendment.

What does the original proponent say before the Chair recognizes Senator Osmeña?

Senator Arroyo. Mr. President, this word is actually a pressure already on the part of

the borrower. There is pressure on the borrower. In fact, the wording says, "SHALL BE GIVEN A PERIOD OF AT MOST NINETY (90) DAYS UPON RECEIPT OF NOTICE TO RESTRUCTURE...."

There is a heavy pressure on the part of the borrower. The borrower is at the mercy of the debtor. If the financial institution does not agree, there is nothing that the borrower can do. All that the financial institution will do is that to agree and let 90 days lapse and automatically, the provisions of this Act will operate. In fact, this is *consuelo de bobo* provision. Not to make it too harsh of the borrower. Because, as I have said, for all practical purposes, if the financial institution does not even talk to the borrower who says, "Can we have a restructuring? Can we renegotiate a 90-day pass?" Then, the provisions of this Act will operate.

SUSPENSION OF SESSION

The President. The Chair declares a one-minute suspension of the session, if there is no objection. *[There was none]*

It was 5:22 p.m.

RESUMPTION OF SESSION

At 5:32 p.m., the session was resumed.

The President. The session is resumed.

All right. I think it has been sufficiently discussed. The Arroyo amendment would reinstate line 28 on page 9 starting with "THAT" up to line 4, on page 10. The proponent or the principal sponsor of the measure, Senator Recto, has accepted the amendment. There is an objection from Sen. Sergio R. Osmeña III; therefore, the Chair is

left with no choice but to call for a division of the house.

Senator Osmeña (S). Mr. President, I would like to ask more questions as regards this particular proposal.

For example, Mr. President, may I ask the distinguished sponsor.

The President. May the Chair know which sponsor--the sponsor of the amendment or the sponsor of the measure?

Senator Osmeña (S). Either. But I will talk with the sponsor of the bill. Let us say, there is the National Steel Corporation. Let us take the top five borrowers with nonperforming loans. My list shows, National Steel Corporation at P7.9 billion; a Mr. Gilbert Kenneth Jaycee Y. Yap, with P3 billion; a G. T. Pena Group of Companies at P2.9 billion; Victoria's Milling Company, Incorporated at P2.6 billion; the AFP Retirement and Separation Benefit System at P2.1 billion. All right. Let us say that these are all owed to one bank.

In actuality, these are owed to several banks. Now, let us say, a SAMC comes along and negotiates long and hard for, say, the sale of the National Steel Corporation nonperforming loan, the Jessie Yap nonperforming loan, the GT Pena Group of Companies nonperforming loan, Victoria's Milling Incorporated nonperforming loan which I think, has been there for about eight or nine years, and the AFP Retirement and Separation Benefits System nonperforming loans.

Let us also take into consideration that these are several loans with several maturity

dates. These are not one loan that was taken out in 1992 or in 1993. I mean, these are, probably, 15 to 20 loans that have been obtained from several banks over the years.

Now, tell me, Mr. President, if I were a SAMC, trying to rehabilitate National Steel and I am dealing already with seven banks, each bank having five different loans--we are talking of about 35 loans--are we going to allow, after a long and hard negotiation, the borrower now to come back and say: "Wait a minute, I have the right to talk about these loans now. I am given 90 days"? What SAMC in his right mind will go through that tedious, painful exercise which will cost a lot of money because there is a due diligence period within which the SAMC will have to determine what would be a proper level of investment or what would be his purchase price for the nonperforming loans. At ququluhin natin?

That is what I am saying, Mr. President. If we do not understand how these things work, it is going to be very difficult for this law to work properly. I already gave in when I said: "Okay, if you want to really give the borrowers a break, give him a blanket 90-day period after the IRR takes effect." But if the borrower can now...he can screw up the negotiations. For example, National Steel can say: "Well, I want to renegotiate on loans two and three of bank one, loans four and five of bank two, loans six and seven of bank three." Guess, Mr. President, what is going to happen.

What I am trying to say is, this can be a very involved and complicated situation, particularly, for the big loans. The small loans are very simple, Mr. President. If one has only one house and it is being foreclosed, hindi ako mag-o-object diyan. But if we are talking about a package of loans that are

being sold from different banks owed by one or a group of sister companies, we can really make it hard.

Senator Recto. Yes, Mr. President. I see the point of the gentleman from Cebu and that is why I really did support his amendment to the amendment of Sen. Joker P. Arroyo that upon the effectivity of this Act, after the implementing rules and regulations are drawn, then all FIs may now write, give a new lease to the borrowers of 90-day period to start and negotiate in the loans where the FI is concerned.

The President. All right. On that basis, can the Chair suggest to Sen. Serge Osmena that we first vote on the Arroyo amendment? If the Body accepts the Arroyo amendment, then the gentleman will propose his amendment....

Senator Osmena (S). Mr. President, I

The President. If the Chair can finish it first. After the Arroyo amendment, in case it is defeated or if the Body approves it, then Senator Osmena can propose the amendment that the 90 days be counted from the time of the effectivity of the Act.

Senator Osmena (S). Mr. President, I do not know if the Chair will remember. Before we went into those hearings of mini caucuses, that my main objection to these lines—

The President. On line 25.

Senator Osmena (S). --lines 25 to 28 on page 9 and lines 1 to 4 on page 10 was that these were not the subject of committee hearings or even included in the original bills. So, I refuse to accept that this is something that can be reinstated. It can be

proposed later on in the period of individual amendments.

Senator Recto. We are in the period of individual amendments.

Senator Osmena (S). I see. So these are individual amendments now?

The President. Yes, Sen. Serge Osmeña.

Senator Recto. We are in the period of individual amendments.

The President. Senator Osmena, that is correct.

Senator Osmena. Then let us go to a vote.

VIVA VOCE

The President. So, we now hold a division of the House.

As many as are in favor of the Arroyo amendment which will reinstate line 26, starting with the word "That" on page 9 up to line 4, page 10, say aye.

Several Members. Aye.

The President. As many as are against, say nay.

Several Members. Nay.

DIVISION OF THE HOUSE

The President. The voting is not clear. We will now go to the raising of hands.

As many as are in favor of the Arroyo amendment, please raise your hand.

Ten (10) senators raised their right hands.

As many as are against, please do the same.

Two (2) senators raised their right hands.

With 10 members voting in favor, 2 against, the Arroyo amendment is approved.

On line 28, starting with the word "That" on page 9 up to page 10 ending with the word "concerned" is reinstated on line 4.

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

Senator Pimentel. Mr. President. I was watching the raising of the hands. I am surprised that this issue had to be put to a vote when the sponsor voted in favor of the Arroyo amendment. He could have just said that he was accepting it.

The President. He said so.

Senator Recto. I did so earlier. I did accept.

Senator Pimentel. Why was it still put to a vote then?

The President. Because of the objection of Sen. Serge Osmena.

Senator Pimentel. All right.

The President. The Majority Leader is recognized.

Senator Leviste. Senator Arroyo wishes to make an amendment on page 10, Mr. President.

The President. For purposes of style, can we just correct that the amendment reinstated on page 28 starts with the word "the" instead of "that"?

The President. Senator Arroyo is recognized.

Senator Arroyo. Mr. President, let me explain again my proposed amendment.

The President. Which line?

Senator Arroyo. On page 10, from line 19 all the way to lines 1 and 2 on page 11.

Mr. President, there has been again deletions by way of committee amendments in this section and they are as follows:

Nature of Transfer. All sales OR [and] transfers of NPAs to a SAMC [SPAV] shall be in the nature of a true sale [and shall be done through public bidding] after proper notice in accordance with the procedures as provided for in SECTION 11....

Mr. President, on lines 20 and 21 are bracketed the words "[and shall be done through public bidding]." In short, this was deleted by a committee amendment. This clause was present in the committee report. So my amendment is again to restore it because what is wrong with the phrase "[and shall be done through public bidding]"?

Let me proceed so that we can have a clear picture.

Senator Recto. Mr. President, can we take it up one by one?

Senator Arroyo. All right. This one-- "[and shall be done through public bidding]".

Senator Recto. Mr. President, the present law says that it must be done if it is an NPA or, for example, in the case of a ROPOA, it must be done by way of auction. So are we amending the existing law? I think that the position of the committee is, we should not amend the existing law.

Senator Arroyo. If that is the intention of the committee and the sponsor that with or without these deleted words, it will go through public bidding or auction. Is that the idea?

Senator Recto. It will go through auction as far as the ROPOA is concerned. As far as an NPL is concerned, the FI has a right to sell it to any assignee. Basically, because of Section 11, we have already said,--accepting the Arroyo amendment that before the FI can sell it to a third party or to a SAMC--in this case, there must be first a 90-day period. Therefore, if the amendment of the gentleman is to restore the phrase "and shall be done through public bidding", the position of the committee is that we would be redefining the relationship today under the Civil Code and therefore, it would be difficult for the sponsor to accept that amendment.

Senator Arroyo. Mr. President, if the explanation of the sponsor... I am just thinking that there might be some controversies over this bill.

Is it my understanding, Mr. President, that the sponsor's interpretation is, if it is

an NFL? As far as the NFL is concerned, then the FI need not go through public bidding.

Senator Recto. That is right. It can be negotiated.

Senator Arroyo. However, if it is a ROPDA, then *ipso facto* it has to go through public auction.

Senator Recto. If the redemption periods have not been satisfied yet, it must be through public auction. After the redemption period, then it can be negotiated as well.

Senator Arroyo. Mr. President, this clause in question will not be very clear until we jump to line 23.

Line 23 says--the bracketed words which were omitted-- "[the original borrower or owner of the NPA shall be entitled to participate in said public bidding, with all the incentives as provided in Section 15 hereof, notwithstanding the fact that the said borrower may not be a SPAV]".

Effectively, Mr. President, this forecloses the participation of the borrower in bidding for the property that would be transferred from the FI to the SPAV.

Senator Recto. That is a good question, Mr. President. The answer to that question is, no, it does not forbid the borrower. As we pointed out, in Section 11, now that we accepted and approved the amendment of Senator Arroyo, then they have a 90-day restructuring period. This is one incentive given to the borrower.

The other incentive would be on page 13, line 10, under Section 15, which says:

"PROVIDED, FINALLY,--this could be interpreted as such, Mr. President--THAT THE FOREGOING TAX EXEMPTIONS AND FEE PRIVILEGES SHALL LIKEWISE APPLY TO ANY TRANSFER OF ROPOAs FROM AN FI TO ANY PERSON FOR A PERIOD OF TWO (2) YEARS FROM THE DATE OF EFFECTIVITY OF THE IRR." This is only with respect to ROPOAs but not with regard to NPL.

Senator Arroyo. So, this will see the thrust of my amendment.

Mr. President, this is all in the same Section 12. But if we look at page 11, lines 1 and 2, it reads: "Provided, finally, That after the transfer of NFAs to the SPAV, the transferring FI shall have no further claim or right of action against the borrower]."

Mr. President, this most important provision I think in the whole Act has been deleted. This deleted portion in effect says that once the NFA of a borrower is transferred by the FI to the SPAV, the FI shall have no further claim or right of action against the borrower. His loan is extinguished.

Let me cite an example. Supposing a borrower owes P100,000. The FI sells it, transfers it to the SPAV for P50,000. Question: Will the borrower still be liable for the P50,000?

With this deleted provision, there is no more claim against the borrower. With this provision deleted, the FI can go again after the borrower for the difference of P50,000.

Now, Mr. President, this goes to the very heart of this bill. This bill is supposed to rehabilitate the banks, meaning, the financial institutions. That is why it is pregnant with benefits and exemptions. But nothing in this

bill rehabilitates the borrower. I have said this before but I will have to stress it again, that this bill should be rehabilitation for both the financial institution and the borrower, otherwise, this will be a one-sided rehabilitation only for the banks.

As a matter of fact, I can do away with what I said earlier about the previous portions here in Section 12 about participating in the public bidding. But on this issue that once it is transferred by the FI to the SPAV, then the borrower is also relieved. Why?

Mr. President, under our present laws, on the example I gave, if a borrower or rather if the SPAV acquires the property of the borrower but there is a deficiency of another P50,000, the FI can still go after the borrower. Not only that, throughout his life, he will be earning money, making money just to pay his borrower. This is the effect of this, and this is the present law. Everybody, once after his property has already been transferred, he still has to pay for the balance. Now, Mr. President, if the claim of the FI is extinguished the moment it is transferred to the SPAV, then we make it more equitable for both the borrower and the banks.

I once said here that we have 4 million borrowers and 30 big banks. Are we legislating for the 30 big banks? Or, must this legislation be also for the borrowers? Mr. President, I once said we cannot give tax exemptions to the FIs, to the SPAV, and yet not give anything to the borrower.

Look, we have this list. Once upon a time, these people, these ones, these corporations also tried to do well. Now, they have gone under.

In the United States, a corporation goes under Chapter 11 of the Bankruptcy Law. We also have some bankruptcy laws here but nobody avails of it. We have also the Insolvency Law, but nobody avails of it.

So I can forego, Mr. President, my proposed reinstatement of the other provisions in Section 12, but on page 11, lines 1 and 2, which reads: "PROVIDED, FINALLY, THAT AFTER THE TRANSFER OF NPAs TO THE SPAV, THE TRANSFERRING FI SHALL HAVE NO FURTHER CLAIM OR RIGHT OF ACTION AGAINST THE BORROWER".

This was in the original committee report. It has been deleted. I move, Mr. President, that this provision be restored because it is very important to the borrower.

Senator Recto. Mr. President, if I may ask....

The President. All right. Just to clarify it for the record, Senator Arroyo is now proposing an amendment on page 11, lines 1 and 2.

Senator Recto. Yes, Mr. President. May I ask the distinguished sponsor of the amendment if he thinks that by having this provision, the FI loses its deficiency claim from the borrower?

Senator Arroyo. That is correct, Mr. President.

Senator Recto. Mr. President, at present, the law allows the FI to have a deficiency claim.

Senator Arroyo. That is correct.

Senator Recto. The original intention of this provision was not so much on the deficiency claim because the deficiency claim is really found in the next section. But in this particular section, what we just wanted to reiterate in the original committee report was to stress the point that it is a true sale.

Senator Arroyo. Yes.

Senator Recto. That the FI selling its NPA to a SAMC relinquishes its control over these NPAs. It is now with the SAMC, and that the FI has nothing to do anymore with the original borrower, but it does not take away the deficiency claim of the FI.

Senator Arroyo. Precisely, Mr. President, I invite the attention of the sponsor to Section 2, *Declaration of Policy*. It has subsections (a), (b), (c), (d), (e), (f)--six subsections.

Mr. President, this is one-sided in favor of the financial institutions. Let us give a break to the borrowers so that they can start life anew. With this bill....

Senator Recto. Precisely, Mr. President, part of the conceptual framework of this bill is that at present, the borrowers are unable to restart their business endeavors because of the huge nonperforming loans they have with the banks. The banks will no longer lend them good money after bad. And precisely, by allowing for this mechanism, then a SAMC may be interested in rehabilitating the borrower.

That is why we have a particular section here in the bill, which is in Section 15, which entices the SAMC to rehabilitate distressed businesses, Mr. President.

So, it may be unfair to say that this bill is only intended for the banks. And even if we were to look at the declaration of policy, Mr. President, paragraph (a) of Section 2 would be good for both the FI and the borrower; paragraph (b) is in favor of the financial sector; paragraph (c) is for the entire private sector; paragraph (d) is also good for both the FIs and the borrowers because if the FIs were to transfer their nonperforming loans to a SAMC, then the distressed business may have a new lease on life; so with paragraph (e).

Senator Arroyo. Mr. President, if we look at all of these, out of the six subsections, it is only subsection (e) which at least gives some suggestions that the borrower will be rehabilitated. But in the explanation of the sponsor, the borrower or the distressed business is at the mercy of SPAV. SPAV does not want to help the distressed industry. There is nothing that we can do. There is no mandatory provision here which says that the SPAV is mandated to...

Senator Recto. That is right. There is no mandatory provision as well.

The President. I think the matter has been debated enough.

Senator Recto. Just one last point, Mr. President.

The President. Yes, Senator Recto.

Senator Recto. There is no mandated provision likewise that forces the banks to sell their NPAs to a SAMC. Neither are we forcing here the borrowers to make dation to the bank or to a SAMC. It is only if it suits their purpose that they can avail themselves

of the incentives and privileges under the bill.

Thank you, Mr. President.

Senator Arroyo. Mr. President, just a little question of the sponsor.

Supposing a house becomes an NPL with one of these housing agencies, then the FI which could be some of these government-owned and controlled corporations classifies it as an NPL and transfers it to SPAV. The borrower who is the owner of the house loses his house, loses his property and on top of that, he is still indebted for the balance or deficiency to the housing agency.

Senator Recto. Not to the housing agency but to the assignee which will be the SAMC.

Senator Arroyo. Whatever it is. The fact is that here is one who takes advantage of our low-cost housing kuno and because of some misfortunes, he cannot keep up with even the low payments and his property becomes an NPL. That property is transferred to SPAV. He will still be indebted for the balance.

What I am trying to say is, why do we not already write off that balance so that the small homeowner can start a new life. These big institutions can take care of themselves. But the small ones, the "small fries," so-called, would not stand a chance. So, this is really the function.

The President. All right.

Senator Biazon. Mr. President.

The President. Sen. Rodolfo G. Biazon is recognized.

Senator Biazon. Before any parliamentary action is taken on the matter, may I ask some questions of the sponsor of the bill?

The President. If the sponsor is willing to answer them.

Senator Recto. Yes, willingly, Mr. President.

Senator Biazon. Mr. President, are there instances where the borrower from financial institutions is government?

Senator Recto. Yes, Mr. President.

Senator Biazon. Where the possibility that the financing institution will sell these NPAs owned supposedly by government but fails to make....Are there instances such as this?

Senator Recto. I do not know if government has ever been declared in default or if government has a nonperforming loan at present with any FI. I am not aware of any.

Senator Biazon. For example, Mr. President....

Senator Recto. Yes, government does borrow.

Senator Biazon. For example, Mr. President, government owes GSIS something like P14 billion. That is why when government was trying to force the GSIS to give its contribution of P20 billion to the United Pabahay Fund. It gave only P6 billion dahil may utang daw ang gobyerno ng P14 billion. Of course, I do not expect the boulevard to our south, the "boulevard of broken dreams", to be repossessed or foreclosed because GSIS lent

us a total of P1.9 billion including interests.

Senator Recto. Lent PEA.

Senator Biazon. Yes. So we do not know if PEA gave any collateral for this. And if PEA would fail to pay the P1.9 billion, what would happen to the property of PEA that may have been put up as collateral? Would the gentleman tell us whether or not PEA had put up a collateral as it borrowed the P1.9 billion including interests from GSIS?

Senator Recto. I am not familiar if PEA put up any collateral to the GSIS for the road project or loan.

Senator Biazon. We may have to take a look at this. Because the issue of Senator Arroyo is public bidding. Hindi po ba? The nature of the loan, whether it is real estate loan and especially taken out by government, may have some impact on the proposal of Senator Arroyo.

Senator Recto. If the gentleman is concerned with the issue of public bidding, there is a clause here that as far as GOCCs and GFIs are concerned, then the existing laws on the disposition of assets should be followed. That is on page 10, line 22. What that would mean then is that it must go through public bidding. The procedures to be undertaken by the government are different from the procedures to be undertaken by the private sector. In this case, that is on page 10, line 22, which says: *Provided, That GFIS AND GOCCS SHALL BE SUBJECT TO EXISTING LAW ON THE DISPOSITION OF ASSETS...*

Senator Biazon. Mr. President, according to Senator Osmena, RSBS has an NPA worth two

point something billion pesos. I would understand that this probably would be in the form of real estate. And I will say that these real estates have been put up as collateral.

Mr. President, the RSBS fund is not entirely private. Government has infusion of funds into the RSBS. As far as I can remember, no less than P500 million in 1979 was put up by government as an initial capital for the RSBS. What then would be the nature of these properties that may have been put up as collateral by the RSBS?

Senator Recto. If they are collateralized with certain financial institutions, I would assume that these collaterals would be treated as private.

Senator Biazon. Private.

Senator Recto. That is right.

Senator Biazon. But it has an infusion. I do not know if we can accept the proposition that the RSBS fund is really private. Because RSBS is supposed to take over the payment of pension to retirees and veterans in the event that in some future time, government may not be able to support the payment of pension to Armed Forces retirees. Meaning, we may have to really examine the nature of this fund. Relative to the proposal of Senator Arroyo, then we must identify whether or not this fund of the RSBS--and therefore the property put up as collateral to the loan taken out by RSBS from any GFI--would be treated as just private property or government property wherein the proposal of Senator Arroyo will come into play?

Senator Recto. Mr. President, from my understanding, the RSBS is a private fund and is not a GOCC or a GFI.

Senator Biazon. We may have to go back, and probably look into its charter and existing government issuances.

Senator Recto. Assuming that the RSBS was a GOCC or a GFI, then if it were not listed in Section 3 which says here, "government financial institutions." There is no mention of RSBS here in government-owned or controlled corporations. There is no mention of RSBS here. Meaning to say, that if it were owned by government, it is not part of GFIs or GOCCs that are covered by this Act.

Senator Biazon. Yes.

Senator Recto. But if it were a private entity, then it is covered by this bill.

Senator Biazon. Yes. Then that must be clarified. So that in the future, when there is reference to the disposition of the RSBS property relative to this law--if this bill becomes law--then it must be made clear in the deliberations of the Chamber what is this provision in the bill? What really is the definition of "RSBS"?

Senator Recto. I think that it would be difficult to define what the "RSBS" is, whether it is private or government in this bill.

Senator Biazon. I am worried, Mr. President, that is why I am raising this question.

Senator Recto. From what I know just to clarify, Mr. President, the RSBS is not a GOCC

or not a GFI. I might be wrong. But since it is not included here in the list of GFIs and GOCCs, I would presume it is private.

Senator Biazon. Yes, Mr. President. I am not referring to RSBS as a financing institution. I am referring to RSBS as a borrower.

As a matter of fact, Senator Osmeña has mentioned of more than P2 billion borrowings of RSBS, and I would say that part of these borrowings is because of that twin tower in Binondo.

Senator Recto. I suppose among many other investments in the RSBS.

Senator Biazon. The China Town Tower of Binondo because up to now, RSBS is losing a lot of money paying interest on the initial borrowing.

Senator Recto. In effect, the gentleman is saying that he is in favor--

Senator Biazon. If we are looking at that...

Senator Recto. --of extending privileges to borrowers in this case.

Senator Biazon. If we are looking at that specific issue of loss, fine with me. But what I am worried about is the disposition of other properties that may have been part of P2.1 billion borrowings of RSBS. Remember, RSBS went on an investment binge during the Ramos administration. It borrowed left and right and that is exactly why I am worried that RSBS may disappear; the fund may disappear because of...

I have still an interest in RSBS because I put in P80,000 there that earned some amount. What was returned to me is only P80,000.

The President. With due deference to Senator Biazon.

Senator Biazon. Yes, Mr. President.

The President. With due deference to the gentleman, there is now a proposed amendment and on the Floor is the proposed amendment of Senator Arroyo to bring back lines 1 and 2 starting with the words "after the transfer of", et cetera.

Senator Biazon. Yes, that is exactly the reason. Mr. President, that is exactly the reason I raised this issue.

The President. Yes, that is correct.

Senator Biazon. Would this be treated similarly with other properties where we auction it or we put it up for public bidding?

The President. All right. The Chair would like to...

Senator Biazon. That is why I raised the issue, Mr. President.

Senator Recto. To respond to that finally, Mr. President, if it is a foreclosed property whose redemption period has not expired, then there is an auction. If it is a foreclosed property whose redemption period has expired, it could be negotiated.

The President. All right.

Senator Recto. With regard to NPLs, the FIs can, depending on what they perceive to be

more beneficial to them, if they think a public bidding is necessary and that they can create greater value for these assets then they can proceed to the public bidding. However, if they think that they can get more value from a negotiated sale because in most cases, many of these will be put in pools as suggested by Senator Osmeña, then these can be negotiated as well.

SUSPENSION OF SESSION

The President. The session is suspended for one minute, if there is no objection. *[There was none.]*

It was 6:15 p.m.

RESUMPTION OF SESSION

At 6:17 p.m., the session was resumed with the President Pro Tempore, Hon. Juan M. Flavio, presiding.

The President Pro Tempore. The session is resumed.

The Majority Leader is recognized.

Senator Leviste. Mr. President, I move that we suspend the period of individual amendments on Senate Bill No. 2116.

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

SUSPENSION OF CONSIDERATION OF S. NO. 2116

Senator Leviste. Mr. President, I move that we suspend consideration of Senate Bill No. 2116.

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

BILL ON SECOND READING
S. No. 2130--Dual Citizenship Act
(Continuation)

Senator Leviste. Mr. President, I move that we resume consideration of Senate Bill No. 2130 as reported out under Committee Report No. 46.

The President Pro Tempore. Is there any objection? [Silence] There being none, resumption of consideration of Senate Bill No. 2130 is now in order.

Senator Leviste. I ask that the sponsor, Senate President Franklin M. Drilon, be recognized. We are in the period of interpellations.

The President Pro Tempore. Senate President Franklin M. Drilon is recognized.

Senator Leviste. To interpellate, I ask that Sen. Rodolfo G. Biazon, be recognized.

Just for the record, Mr. President, the following who earlier reserved for interpellations had withdrawn their reservations--Senators Barbers and Arroyo.

Senator Drilon. Senator Anqara also.

Senator Leviste. And Senator Anqara. So this is the last interpellation on Senate Bill No. 2130 according to the Senate President.

Senator Drilon. Yes.

The President Pro Tempore. So noted.

The President Pro Tempore. Sen. Rodolfo G. Biazon is now recognized.

Senator Biazon. Thank you, Mr. President.

Would the gentleman care to answer some questions?

Senator Drilon. With pleasure, Mr. President.

Senator Biazon. Mr. President, it is a universally accepted principle that the issue of citizenship has two components. The first component is the grant of political and civil rights to the subject, subject to special disqualifications, but it also imposes the duty of allegiance to the political community. Is this not right?

Senator Drilon. That is correct, Mr. President.

Senator Biazon. Now, it has been stated in past interpellations and it is so stated in the bill that the natural-born citizens who left this country and acquired citizenship in other country do not have to do anything anymore to reacquire the Filipino citizenship after this proposed bill becomes law. Is this correct, Mr. President?

Senator Drilon. That is correct, Mr. President. The purpose of this bill is precisely what the gentleman said, **A**nd as stated in the *Declaration of Principle* that Philippine citizenship acquired by parentage pursuant to the constitutional provision, such citizenship shall be protected and shall be of permanent status; meaning, that it is so guaranteed in the Constitution and therefore we shall protect it through the enactment of

this law and the repeal of Commonwealth Act No. 63 which is a law passed 65 years ago.

Senator Biazon. Mr. President, let us take one country where we have a lot of former Filipino citizens who acquired citizenship in that country.

Senator Drilon. United States.

Senator Biazon. And by way of acquiring that citizenship, they are required by law to take the Oath of Citizenship.

For purposes of discussion, Mr. President, may I read this Oath of Citizenship required of naturalized citizens in the United States. I quote:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform non-combatant service in the armed forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely without any mental reservation or purpose of evasion; So help me God.

Mr. President, it is very clearly stated here that that naturalized citizens in America have taken an oath renouncing allegiance to any other country except America.

If we automatically grant the reacquisition of American citizenship to Filipinos, are we disregarding the importance of this Oath of Citizenship?

Senator Drilon. Mr. President, let me state that were it not for Commonwealth Act No. 63, which is 65 years old, the taking of this oath will not result in the loss of Philippine citizenship because it is only through Commonwealth Act No. 63 that the naturalization of a Filipino citizen to a foreign country causes a loss of Filipino citizenship.

First, let me state that it is not the Constitution but it is Commonwealth Act No. 63 which causes a loss of citizenship by virtue of naturalization.

Second, Mr. President, the policy that we would like to push is that citizenship under the Constitution is permanent and therefore the mere oath of allegiance found in the naturalization pledge should not automatically deny and result in the citizenship being removed. It must be a specific renunciation and not a renunciation pursuant to an oath of naturalization. I would like to think that a good 99% of our countrymen took their oath of allegiance pursuant to the naturalization requirements of the United States. In other words, if they have a choice, if they can get naturalized without this provision, I would like to believe that they will do so because it is for economic reasons that they acquired citizenship of the foreign country.

Third, I would like to point out, Mr. President, that I do not see any prejudice to the Philippine interest by pursuing the principle that citizenship acquired under the Constitution cannot be lost except by a specific and separate renunciation. No national interest is prejudiced where we allow a retention of citizenship as we have allowed it.

Senator Biazon. Mr. President, I will agree that the reason many of our compatriots left the Philippines, acquired citizenship in another country, took an oath of allegiance to that country was probably due to economic convenience, as a matter of fact, mostly. But this is an assumption. There is no empirical proof that the oath of citizenship that they have taken was due to economic expediency and not taken to heart. Granting, however, that 99% of those who have taken that oath was due to economic convenience, all it takes, Mr. President, is one individual that can come back here and become a fifth columnist that could render our national interest vulnerable to this fifth columnist.

Is this not a possibility, Mr. President?

Senator Drilon. That is a possibility, Mr. President, in the same manner that it is a possibility now. Even without this law, they can come back here and do the same thing that the good gentleman is concerned about. We cannot prevent that former Filipino acting as a "fifth columnist" coming here to the country at this point.

Senator Biazon. Yes, Mr. President, but not with the benefit of us granting it by law.

Senator Drilon. We can make a distinction, Mr. President, between political

rights and civil rights. Maybe we can deny or suspend political rights in certain instances, Mr. President.

Senator Biazon. Yes, Mr. President. I was going to ask the question because the bill will grant full political and civil rights. And the grant of political rights includes—

Senator Drilon. The right to vote.

Senator Biazon. --the grant of the right to be appointed to office or run for office, provided, that they are not actually, at the time of appointment, occupying any office in the other country. Is this correct?

Senator Drilon. In fact, more than that, Mr. President. If they run for public office in the Philippines or get appointed to any public office in the Philippines, they are compelled under the measure to renounce the other citizenship.

Senator Biazon. Well, this is under the provisions of the proposed law, Mr. President?

Senator Drilon. That is correct, Mr. President.

Senator Biazon. And they are required to renounce.

Senator Drilon. That is correct, Mr. President.

Senator Biazon. Now, which means that they will be required to therefore take this oath of citizenship in the Philippines?

Senator Drilon. Yes, Mr. President. We can require that when they renounce and they pledge allegiance to the Philippines.

Senator Biazon. Yes. Because, Mr. President, the oath of citizenship administered to a Filipino citizen is different from an oath of office.

Senator Drilon. Yes. We can provide in the measure, Mr. President, that the oath of—

Senator Biazon. Oath of citizenship.

Senator Drilon. --citizenship for these dual citizens who would want to assume public office, either elective or appointive, will include a clause wherein they will pledge allegiance to the Republic and renounce any other citizenship.

Senator Biazon. Yes, Mr. President. Then, probably that would have answered the question that I am raising.

Another question, if I may, Mr. President.

Senator Drilon. Yes, Mr. President.

Senator Biazon. Would the proposed law apply to Filipinos who had become citizens of another country--for all countries?

Senator Drilon. That is correct, Mr. President, because that is the only way that we can defend the constitutionality of this measure as being nondiscriminatory.

Senator Biazon. Mr. President, would this include countries where we have either economic or political conflict, not armed conflict--economic or political conflict?

Senator Drilon. The proposal, Mr. President, is that once one accepts a position, either in the military or civilian

sectors of the foreign government where one is a citizen also, then all his political rights are suspended.

For example, to be more specific, if one becomes an employee of the federal government of the United States, his political rights in the Philippines are suspended while he is serving the government of the foreign country. That is the proposal of the committee in view of the interpellations, including that of the sponsor, Mr. President.

Senator Biazon. My concern about Filipino citizens becoming U.S. citizens may be minimal, Mr. President. But I may have a different position with regard to countries where we have, as I said, political or economic conflict.

Spratley's claimants is an example. We have almost, as a matter of fact, armed conflicts in the area but definitely we have an economic conflict with neighboring countries with that.

So, my question is: Will this law apply to Filipinos who have become citizens of these countries?

Senator Drilon. Yes, Mr. President, it will apply because, as we said, we cannot have a valid classification and disqualify those, let us say, Filipinos who have acquired Vietnamese citizenship. We cannot specify Vietnam because it will be unconstitutional. For that matter, we cannot specify any country as it would be difficult to defend from the equal protection of the law provision.

It is difficult to define, Mr. President, political and economic conflict because it is

so broad that it may also apply to any other country:

For example, we have an economic conflict in Europe, with the European communities—

Senator Biazon. Yes, Mr. President.

Senator Drilon. --because of the tariff on tuna, that can be classified as an economic conflict. We have also, for that matter, an economic conflict with the United States because of the poached tuna tariff.

So, all these things, Mr. President, I would respectfully submit, make it difficult to make a classification on the basis of political or economic conflict.

Senator Biazon. Thank you, Mr. President.

Let me give the gentleman an example to illustrate my point.

Is it not a crime for foreigners to fish in our exclusive economic zone? For example, poaching.

Senator Drilon. Yes, I think so. Without permission from the authorities.

Senator Biazon. Now, Mr. President, if a Filipino who acquired Taiwanese citizenship-- and there are Filipinos who have acquired Taiwanese citizenship--comes in on board a Taiwanese fishing vessel and is caught fishing in our waters, by virtue of this law--if it becomes law--he claims not to have committed any crime because he is also a Filipino citizen. How do we deal with the situation and yet he is fishing for a foreign firm?

SUSPENSION OF SESSION

Senator Drilon. Can we have a one-minute suspension of the session, Mr. President?

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

It was 6:35 p.m.

RESUMPTION OF SESSION

At 6:38 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Drilon. In that particular example that Senator Biazon mentioned, the situation is, the fishing boat is engaged in commercial fishing.

Senator Biazon. Yes.

Senator Drilon. And in that particular instance, even if he is a Filipino citizen on board, he is still subject to penal laws because he needs a permit to go on commercial fishing.

Senator Biazon. And we are going to grant that because he is a Filipino citizen?

Senator Drilon. Not necessarily, Mr. President, because there is already discretion of the exercise and in that particular case, given the fact that he is a Filipino with dual citizenship and in that situation a citizen also of Taiwan, then the permit can be denied him.

Senator Biazon. On what grounds?

Senator Drilon. On the ground that it is contrary to the national interest that he be allowed to go on commercial fishing since he is....

Senator Biazon. He is a Taiwanese citizen?

Senator Drilon. Since he has dual citizenship.

Senator Biazon. Then we are putting a discretion.

Senator Drilon. No.

Senator Biazon. We are putting a distinction.

Senator Drilon. No, Mr. President. What we are doing is to deny him a permit to fish in that particular example.

Senator Biazon. On the ground that he is possessing dual citizenship?

Senator Drilon. Not necessarily, Mr. President. The discretion can be exercised on such a basis--on the fact that he is hired by Taiwanese vessels to fish in the Philippines.

Senator Biazon. All right. What if this Filipino who has dual citizenship owns the vessel, how is he then going to be treated?

Senator Drilon. If he owns the vessel and based in Taiwan, we can still deny him the right to commercial fishing in the country.

Senator Biazon. Then, again, I insist that there is a distinction there.

Senator Drilon. In that particular case, the distinction is not on the matter that he is being denied citizenship, but he is denied the permit to fish.

Senator Biazon. Well, the denial of permit cannot be arbitrary. There must be a basis—

Senator Drilon. That is correct, Mr. President.

Senator Biazon. --for the denial of a permit to fish, Mr. President.

Senator Drilon. That is correct, Mr. President. That is for the courts to determine whether or not the denial is arbitrary.

Senator Biazon. Mr. President, if there is going to be a litigation that will arise from the enactment of this bill into law and if I agree with the proposition that we leave it to the court, then we are going to have a lot of problems in the future. We must be very clear in the laws that we pass in this Chamber so that it will not leave too much discretion in the interpretation of the intent and spirit of the laws that we are going to pass. Otherwise, we will be enacting laws that will be subject to a lot of interpretations out there.

Senator Drilon. Yes, Mr. President. We are willing to consider these views. That is why during the break, we were asking Senator Biazon what is his proposal. We may suggest to the good Senator that we will review this situation and, probably, come up with some language at the appropriate time which can cover this situation.

Senator Biazon. Yes, Mr. President. I therefore, agree to move on to another set of questions, if I may.

Senator Drilon. Yes, Mr. President.

Senator Biazon. Mr. President, are we not considering the issue of reciprocity between the Philippines and other countries where this issue may come up? Are we not taking into consideration the question of reciprocity?

Senator Drilon. Mr. President, we are not because what we are simply doing is to recognize the constitutionally protected citizenship of natural-born citizens of the country.

Senator Biazon. Yes.

Senator Drilon. Therefore, the question of reciprocity has not been considered. Because I cannot imagine a reciprocity clause wherein Filipinos will be granted a second citizenship if the country wherein he is a second citizen of is allowed a citizenship in our country also. I think on two grounds we have not considered the question of reciprocity. As I repeat, first, the bill is only a recognition of the constitutionally protected permanency of the status of a natural-born citizen. And, second, the reciprocity has no application in this particular situation, Mr. President.

Senator Biazon. Mr. President, the People's Republic of China has very stringent laws on citizenship. And since it is common knowledge that many Filipinos, who are natural-born citizens, are to be covered by this proposed bill, we see a movement across borders of investments in this country, from here to either Taiwan or China.

Now, would a grant of Filipino citizenship to those who have clearly moved across the border not serve as a funnel in siphoning the resources of this country to the other side?

Senator Drilon. They are doing that now so the enactment of this law will not change that situation. If they are natural-born citizens of the country and they have acquired Chinese citizenship, all that this law is saying is, by virtue of the acquisition of Chinese citizenship, it does not automatically divest them of their being natural-born citizens of the country unless they specifically renounce that status.

Senator Biazon. All right. My question, Mr. President, is: Do we use the two principles of *jus soli* and *jus sanguinis* in the grant of citizenship to individuals?

Senator Drilon. No, Mr. President. We only use *jus sanguinis*. Under the Constitution, only those born of Filipino fathers or mothers.

Senator Biazon. Yes. However, in the bill, it proposes that those who are born in the United States of Filipino parentage are not proposed to benefit from this law.

Senator Drilon. No, no. They will. Precisely, that is the whole bill, Mr. President. Those who are born in the United States of Filipino parents which in the amendment will be a Filipino father or Filipino mother...

First, those who are born in the United States have dual citizenship. Those who are born of Filipino fathers or Filipino mothers in the United States are both American and

Filipino citizens by virtue of the simultaneous application of the principle of *jus soli* or *jus sanguinis*. My recollection is that under American law, the moment one gets to a certain age of majority, which is 21, he has to make a choice. In that instance, if he makes a choice, let us say, as an American citizen, he loses his Filipino citizenship under Commonwealth Act No. 63.

Senator Biazon. After he reaches the age of majority.

Senator Drilon. That is correct, Mr. President.

Senator Biazon. Meaning, if we grant natural-born citizens who lost their Filipino citizenship by virtue of being naturalized in the United States, their children can be considered for dual citizenship, granting them political and civil rights only up to the age of 18, after which, they will have to indicate whether they want to become Filipino citizens or American citizens.

Senator Drilon. If those children are born of Filipino parents and at the time of the enactment of this law the parents become dual citizens, that child who is a minor and unmarried continues to be a natural-born citizen of the country, notwithstanding his oath of allegiance upon reaching the majority age under the American law.

Senator Biazon. Therefore, they can come here and buy properties.

Senator Drilon. That is correct, Mr. President.

Senator Biazon. And this is true to the second generation of Filipinos; meaning,

Filipinos born in the United States but of Filipino parentage.

Senator Drilon. That is correct, if at the time of their birth either the fathers or the mothers are citizens of the Philippines.

Senator Biazon. They are citizens of the Philippines. But with the possible enactment of this bill, that distinction will be removed.

Senator Drilon. No, Mr. President. That would still be there. The mere taking of the oath of allegiance upon reaching majority age will not result now in the loss of the Philippine citizenship.

Senator Biazon. That is what I am saying, Mr. President. Can a third generation American-born Filipino have the opportunity to buy properties in the Philippines?

Senator Drilon. Can we walk through, Mr. President? Can the gentleman give an example so that I can properly reply?

Senator Biazon. Mr. President, for example, Mr. Juan A, who was born in the Philippines, migrated to the United States, acquired a U.S. citizenship and under present condition, lost his citizenship. But because of this measure, he regains his Filipino citizenship. Now, his son, Juan B, by virtue of this measure, will also acquire dual citizenship. Is it correct?

Senator Drilon. It depends if Juan B is of minor age at the time of this ... I am sorry. Before I answer that question, when was Juan B born?

Senator Biazon. After Juan A has become a U.S. citizen.

Senator Drilon. If Juan A has already acquired U.S. citizenship, then Juan B is no longer a natural-born citizen.

Senator Biazon. So he is not covered here.

Senator Drilon. He is not covered under this bill, Mr. President.

Senator Biazon. That is exactly what I am asking in my previous question, Mr. President.

So, it is not automatic that the children of natural-born citizens who acquired citizenship in another country, but by virtue of this law--if this becomes law--is given back his Filipino citizenship, the birth of the second generation will determine whether he is granted dual citizenship or not.

Senator Drilon. Let me clarify it, for the record. Assuming that Juan A went to the United States in 1990, just as an example. He acquired U.S. citizenship in 1995; a child was born in 1996. That child cannot be granted dual citizenship... No, no. In 1996, no law is yet passed.

Assume that we pass the law in 2002. In this particular instance, the child is born before the passage of this law and is a minor at the time of the passage of this law, because he was born in 1996, and the father becomes a dual citizen because of the passage of the law in 2002. In that particular instance, the child acquires dual citizenship because he is a minor at the time.

Senator Biazon. Automatically?

Senator Drilon. That is correct, Mr. President.

Now, if he is already of major age at the time the law is passed, then he is no longer covered.

Senator Biazon. He cannot gain Filipino citizenship unless through naturalization.

Senator Drilon. That is correct, Mr. President. Because he is not a natural-born citizen of the country and he is not benefited from a derivative citizenship since he was already of major age at the time the law is passed.

Senator Biazon. Mr. President, that is fine. What will be the effect of this law on extradition treaties?

Senator Drilon. It has no effect, Mr. President, because under the extradition treaty, the citizenship of the subject of the request for extradition is not material. It is the commission of the crime in the territorial jurisdiction of the requesting State that is material. So that if an American citizen commits a crime in the Philippines and the American citizen goes back to the United States, the mere fact that he is an American citizen will not prevent the extradition treaty from taking place.

Senator Biazon. Yes. The Visiting Forces Agreement prescribes the legal mechanism by which we treat American troops committing offenses under Philippine laws, and so we acquire jurisdiction under certain conditions. If the law is passed, and we have Filipino-American troops participating in the exercise *Balikatan*, where will he be?

Senator Drilon. Under the proposed amendment that will be introduced, the political rights of that Filipino-American in

the Armed Forces of the United States will not be effective, and therefore, he is treated like an American citizen.

Senator Biazon. An American?

Senator Drilon. That is correct, Mr. President.

Senator Biazon. And therefore he cannot tell America. "Hey, I am a Filipino citizen too." He cannot do that?

Senator Drilon. No, Mr. President.

Senator Biazon. Which gives me the question of reciprocity. Would the other country therefore not respect the political and civil rights and protection granted by Philippine government to Filipinos who may regain citizenship and insist that they are citizens of that country, and therefore, whatever protection that our government may want to extend will not be material? Is this the case?

Senator Drilon. No, Mr. President. As we said earlier in these debates and in the previous interpellations, the matter of who the citizens of the country are would be determined by the laws of that sovereign nation. The matter of the situation contemplated by the gentleman would really involve a dual application of certain laws, which is the very complicated situation in private international law wherein the laws of two nations are attempted to be reconciled by the courts when this case is brought before them. It is a subject which is very dynamic and the rules change from time to time, Mr. President.

Senator Biazon. Now, let us give another example, Mr. President. Since reciprocity is not a factor being considered, what happens if a Filipino would become a citizen of one country that does not have any extradition treaty with us and he commits an offense against our laws, can we extend him protection?

Senator Drilon. Can we have the question again, Mr. President?

Senator Biazon. Well, we have, for example, we do not have an extradition treaty with Country B.

Senator Drilon. All right, let us say, with Romania.

Senator Biazon. Romania. We do not have extradition treaty with Romania. And if he comes here....

Senator Drilon. Who is he, Mr. President?

Senator Biazon. A Filipino citizen, a Filipino, a natural-born Filipino citizen goes to Romania, becomes a citizen of Romania. He comes back to visit his relatives and commits offenses under our laws. What would be our response to a move by the Romanian Embassy if the Romanian Embassy wants to protect this individual?

Senator Drilon. The legal situation, Mr. President, is that that person has violated the penal laws of the country—

Senator Biazon. Yes.

Senator Drilon. --and therefore, he is punishable under the laws of the country regardless of whether or not he is a dual

citizen. And the mere fact that he is a dual citizen will not change the situation because he is subject to Philippine laws for a crime committed within the Philippine territorial jurisdiction.

Senator Biazon. All right. So what happens if that Filipino is an American citizen?

Senator Drilon. The same, Mr. President, if that Filipino commits a crime here, he is punishable under our Philippine laws.

Senator Biazon. All right. Now, Mr. President, we might be running out of time.

Senator Drilon. No, tapusin na natin ito.

Senator Biazon. I will continue....

SUSPENSION OF SESSION

Senator Drilon. Mr. President, may I request a one-minute suspension.

The President Pro Tempore. The session is suspended for one minute if there is no objection. *[There was none.]*

It was 7:01 p.m.

RESUMPTION OF SESSION

At 7:01 p.m., the session was resumed.

The President Pro Tempore. The session is resumed.

Senator Biazon. At this point, Mr. President, I terminate my interpellation.

Senator Drilon. I would like to thank the gentleman, Mr. President.

Senator Leviste. Mr. President.

The President Pro Tempore. The Majority Leader is recognized.

Senator Leviste. Mr. President, I now move that we close the period of interpellations on Senate Bill No. 2130.

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

SUSPENSION OF CONSIDERATION OF S. NO. 2130

Senator Leviste. Mr. President, I move that we suspend consideration of the measure.

The President Pro Tempore. There is a motion to suspend consideration of Senate Bill No. 2130 under Committee Report No. 46. Is there any objection? [Silence] There being none, the motion is approved.

ADJOURNMENT OF SESSION

Senator Leviste. Mr. President, I move that we adjourn until three o'clock in the afternoon, Tuesday, October 22, 2002.

The President Pro Tempore. There is a motion to adjourn. Is there any objection? [Silence] There being none, the session is adjourned until three o'clock in the afternoon sharp, tomorrow, Tuesday, October 22, 2002.

It was 7:02 p.m.