

RECORD OF THE SENATE

WEDNESDAY, AUGUST 26, 1998

OPENING OF THE SESSION

At 3:03 p.m., the Senate President, Hon. Marcelo B. Fernan, called the session to order.

The President. The 15th session of the Senate in the First Regular Session of the 11th Congress is hereby called to order.

We shall be led in prayer by Senate President Pro Tempore Blas F. Ople.

Everybody rose for the prayer.

PRAYER

Senator Ople.

PANALANGIN

Mahal naming Panginoon:

Sa amin pong kapaligiran ay naghahari pa rin ang lagim ng mga patayan, gutom at matinding pagdarahop at laganap na kawalan ng pag-asa;

Sa kabila nito'y buo ang aming pananampalataya sa Iyo at sa Iyong banal na pananalita. Sapagkat alam naming sa pamamagitan ng kalinga at pagpapala Mo ay maaari naming tawirin at pagtagumpayan ang lahat ng pagsubok na ito kung kami ay magiging tapat sa Iyo at sa aming sinumpaang tungkulin.

Pagpalain Mo po, Panginoon, ang Senado ng Pilipinas at ang lahat ng bumubuo sa Kapulungang ito.

Maraming salamat po.

The President. Thank you, Senate President Pro Tempore, Blas F. Ople.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

Senator Teresa Aquino-Oreta Present
Senator Robert Z. Barbers Present
Senator Rodolfo G. Biazon **
Senator Renato L. *Compañero* Cayetano Present
Senator Anna Dominique M. L. Coseteng . Present
Senator Franklin M. Drilon Present
Senator Juan Ponce Enrile Present*

Senator Juan M. Flavier Present
Senator Teofisto T. Guingona Jr. Present
Senator Gregorio B. Honasan Present
Senator Robert S. Jaworski Present
Senator Loren B. Legarda-Leviste Present
Senator Ramon B. Magsaysay Jr. Present
Senator Blas F. Ople Present
Senator John Henry R. Osmeña Present*
Senator Sergio R. Osmeña III Present
Senator Aquilino Q. Pimentel Jr. Present
Senator Ramon B. Revilla Present*
Senator Raul S. Roco Present
Senator Miriam Defensor Santiago Present
Senator Vicente C. Sotto III Present
Senator Francisco S. Tatad Present
The President Present

The President. With 19 senators being present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Drilon. Mr. President, I move that we dispense with the reading of the *Journal* of the previous session and consider it approved.

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

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

The Secretary.

Malacañang
Manila

Aug. 20, 1998

Hon. MARCELO B. FERNAN
Senate President
Senate of the Philippines
Pasay City

Dear Senate President Fernan:

I hereby endorse Senate Bill No. 586, entitled

* Arrived after roll call

** On official mission

AND OTHER APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED THREAT OF TERRORISM IN THE PHILIPPINES AS MAY BE CONFIRMED BY THE ALLEGED LINKS OF TERRORIST LEADER AND FINANCIER OSMAN BIN LADEN IN MINDANAO, WITH THE END IN VIEW OF ADOPTING LEGISLATIVE MEASURES THAT WILL ADDRESS THE VERY NATURE OF TERRORISM, ITS ACTS, NATURE AND EFFECT TO THE NATIONAL SECURITY

Introduced by Senator Barbers

The President. Referred to the Committee on National Defense and Security

The Secretary. Proposed Senate Resolution No. 149, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN IMMEDIATE INQUIRY, IN AID OF LEGISLATION, INTO THE CLAMOR FOR JUSTICE AND EQUITY OF THE POOR AND MARGINALIZED SECTOR, WHO FALL VICTIM TO THE ALLEGED FIENDISH PLOT OF UNSCRUPULOUS LAND GRABBERS AND SOME CORRUPT LAND REGISTRATION AUTHORITY PERSONNEL AND COURT OFFICIALS, PERTAINING TO THE ADMINISTRATIVE ISSUANCE AND COURT AUTHENTICATION OF FAKE LAND TITLES THAT SERVE TO JUSTIFY THE WANTON DEMOLITION OF THEIR HOMES

Introduced by Senator Jaworski

The President. Referred to the Committees on Justice and Human Rights; and Social Justice, Welfare and Rural Development

COMMITTEE REPORTS

The Secretary. Committee Report No. 2, prepared and submitted by the Committee on Economic Affairs, on Senate Bill No. 1136, with Senator Sergio Osmeña III and the members of the Committee on Economic Affairs as authors thereof, entitled

AN ACT EXPEDITING THE DEVELOPMENT OF ECOZONES, AMENDING CERTAIN

SECTIONS OF REPUBLIC ACT NO. 7916, OTHERWISE KNOWN AS "THE SPECIAL ECONOMIC ZONE ACT OF 1986," AND FOR OTHER PURPOSES,

recommending its approval in substitution of Senate Bill No. 155.

Sponsors: Senator Sergio Osmeña III and the members of the Committee on Economic Affairs

The President. To the Calendar for Ordinary Business

The Secretary. Committee Report No. 3, prepared and submitted by the Committee on Public Services, on Senate Bill No. 1137, with Senators Flavier, Coseteng, Sotto III, Osmeña III and Santiago as authors thereof, entitled

AN ACT REQUIRING THE MANDATORY COMPLIANCE BY MOTORISTS OF PRIVATE AND PUBLIC VEHICLES TO USE SEAT BELT DEVICES, AND REQUIRING VEHICLE MANUFACTURERS TO INSTALL SEAT BELT DEVICES IN ALL THEIR MANUFACTURED VEHICLES,

recommending its approval in substitution of Senate Bill Nos. 69, 248 and 695.

Sponsors: Senators Sotto III, Flavier, Coseteng, Osmeña III and Santiago

The President. To the Calendar for Ordinary Business

The Majority Leader is recognized.

MANIFESTATION OF SENATOR DRILON
(Senator Coseteng as Coauthor of S. No. 829)

Senator Drilon. Mr. President, upon the request of Senator Coseteng, I would like to manifest that she is made a coauthor of Senate Bill No. 829.

The President. It is noted. Senator Coseteng is made a coauthor of Senate Bill No. 829.

MOTION OF SENATOR DRILON
(Change of Referral)

Senator Drilon. Mr. President, may we amend the referral on Senate Bill Nos. 152 and 1118. These two bills were previously referred to the Committee on Trade and Commerce.

With the concurrence of the chairman of the Committee on Trade and Commerce, I move that these bills be referred to the Committee on Banks, Financial Institutions and Currencies as the primary committee.

The President. Is there any objection?

Senator Osmeña III. Mr. President.

The President. Sen. Sergio Osmeña III is recognized.

Senator Osmeña III. Just a point of clarification and to insert into the *Record* how these bills came to be referred to the Committee on Trade and Commerce.

In the Tenth Congress, the Revised Investment Company Act was indeed referred to the Committee on Trade and Commerce. As chairman then of the committee, I conducted three hearings before I was changed as chairman of the committee. After that, the bill did not progress further.

In this Congress, I have already finished and completed two hearings, and I am ready to do the committee report. Unfortunately, upon reading the Senate *Rules*, I realized that it is the Committee on Banks, Financial Institutions and Currencies which has jurisdiction over such bills.

The reason for this mix-up is that, while the bills might be titled "Investment Company Act," it really refers to mutual funds and not to investment companies. Therefore, it rightfully belongs within the jurisdiction of the Committee on Banks, Financial Institutions and Currencies. But I would just like the Body to know that this representation has finished all the necessary hearings thereon and would have been ready to come out with a committee report.

Thank you, Mr. President.

The President. Without objection on the part of Senator Osmeña III and Senator Magsaysay Jr., and not hearing any other objection, the motion is hereby approved.

SPECIAL ORDERS

Senator Drilon. Mr. President, with the consent of the Chamber, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Senate Bill No. 1136 under Committee Report No. 2, entitled

AN ACT EXPEDITING THE DEVELOPMENT OF ECOZONES, AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 7916, OTHERWISE KNOWN AS THE SPECIAL

ECONOMIC ZONE ACT OF 1995 AND FOR OTHER PURPOSES

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

BILL ON SECOND READING

S. No. 1136—Special Economic Zone Act of 1995

Senator Drilon. Mr. President, I move that we consider Senate Bill No. 1136, as reported out under Committee Report No. 2.

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

Consideration of Senate Bill No. 1136 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1136, entitled

AN ACT EXPEDITING THE DEVELOPMENT OF ECOZONES, AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 7916, OTHERWISE KNOWN AS THE SPECIAL ECONOMIC ZONE ACT OF 1995 AND FOR OTHER PURPOSES

The following is the whole text of the bill:

Senate Bill No. 1136

AN ACT EXPEDITING THE DEVELOPMENT OF ECOZONES, AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 7916, OTHERWISE KNOWN AS THE SPECIAL ECONOMIC ZONE ACT OF 1995 AND FOR OTHER PURPOSES

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

SECTION 1. Chapter I, Section 4 (a) of Republic Act No. 7916 is hereby amended, to read as follows:

"SEC. 4. *Definition of Terms.* - For purposes of this Act, the following definitions shall apply to the following terms:

“(A) ‘Special Economic Zones (SEZ)’ - Hereinafter referred to as ECOZONES, are selected areas with highly developed or which have the potential to be developed into agro-industrial, industrial, tourist/recreational, commercial, banking, investment and financial centers. An ECOZONE may contain any or all of the following: Industrial Estates (IE), Export Processing Zones (EPZ), free trade zones, [and] SUPPORT FACILITIES, SUCH AS RESIDENTIAL AND COMMERCIAL ESTABLISHMENTS THAT CATER TO THE NEEDS OF THE EMPLOYEES WORKING INSIDE THE ZONE.”

SEC. 2. Chapter II, Section 11, Paragraph Three (3) of Republic Act No. 7916 is hereby amended, to read as follows:

“CHAPTER II
“GOVERNING STRUCTURES

“SEC. 11. *The Philippine Economic Zone Authority (PEZA) Board.* - There is hereby created a body corporate to be known as the Philippine Economic Zone Authority (PEZA) attached to the Department of Trade and Industry. The Board shall have a director general with the rank of department under-secretary who shall be appointed by the President. The director general shall be at least forty (40) years of age, of proven probity and integrity, and with a degree in economics, business, public administration, law, management or its equivalent.

“The director general shall be assisted by three (3) deputy directors general each for policy and planning, administration and operations, who shall be appointed by the PEZA Board, upon the recommendation of the director general. The deputy directors general shall be at least thirty-five (35) years old, with proven probity and integrity and with a degree in economics, business, public administration, law, management or its equivalent. They must have career executive service eligibility.

The Board shall be composed of [the director general as *ex officio* chairman with eight (8)] THIRTEEN (13) members as follows: the Secretar[ies]Y [or their representatives] of the Department of Trade

and Industry AS CHAIRMAN, THE DIRECTOR GENERAL OF THE PHILIPPINE ECONOMIC ZONE AUTHORITY AS VICE-CHAIRMAN AND MANAGING HEAD, THE SECRETARIES of the Department of Finance, the Department of Labor and Employment, the Department of Interior and Local Government, THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, THE DEPARTMENT OF AGRARIAN REFORM, THE DEPARTMENT OF AGRICULTURE, THE DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, the DIRECTOR GENERAL OF THE National Economic and Development Authority [and the *Bangko Sentral ng Pilipinas*], one (1) representative from the labor sector, [and] one (1) representative from the investors/business sector in the Ecozone AND THE PRESIDENT OF THE PHILIPPINE INDUSTRIAL ESTATES ASSOCIATION. IN CASE OF THE UNAVAILABILITY OF THE SECRETARY OF TRADE AND INDUSTRY TO ATTEND A PARTICULAR MEETING, THE DIRECTOR GENERAL OF PEZA SHALL ACT AS CHAIRMAN.

“IN THE EVENT THAT A SECRETARY OF A DEPARTMENT CANNOT ATTEND ANY BOARD MEETING, HE MAY DESIGNATE A REPRESENTATIVE TO ATTEND IN HIS STEAD: *PROVIDED, HOWEVER,* THAT THE REPRESENTATIVE DESIGNATED SHALL IN NO CASE BE HOLDING A POSITION LOWER THAN ASSISTANT SECRETARY.

XXX”

SEC. 3. Chapter II, Section 15 of Republic Act No. 7916 is likewise amended, to read as follows:

“SEC. 15. *Administration of Each ECOZONE.* - EXCEPT FOR PRIVATELY-OWNED, MANAGED OR OPERATED ECOZONES, each ecozone shall be organized, administered, managed and operated by the ECOZONE executive committee composed of the following:

XXX”

SEC. 4. Chapter II, Section 16 of Republic Act No. 7916 is likewise amended, to read as follows:

“SEC. 16. [*Salary and Other Emoluments.*

- The salary of the director general shall be in accordance with the revised compensation and position classification system.] - *NON-APPLICABILITY OF R.A. 6758 TO THE PEZA.* - THE PROVISIONS OF R. A. 6758, OTHERWISE KNOWN AS THE 'COMPENSATION AND POSITION CLASSIFICATION ACT OF 1989' SHALL NOT APPLY TO THE PEZA. THE SALARIES, BENEFITS AND OTHER EMOLUMENTS OF THE OFFICERS, DIRECTORS, AND EMPLOYEES OF PEZA SHALL BE COMMENSURATE WITH PRIVATE INDUSTRY STANDARDS TO BE DETERMINED BY THE BOARD OF DIRECTORS OF PEZA AND APPROVED BY THE SECRETARY OF TRADE AND INDUSTRY."

SEC. 5. Chapter III, Section 29 of Republic Act 7916 is hereby amended, to read as follows:

"SEC. 29. *Eminent Domain.* - The areas comprising an Ecozone may be expanded or reduced when necessary. For this purpose, the [Government] PEZA shall have the power to acquire, either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the Ecozone for:

- a) Consolidation of lands for zone development purposes;
- b) Acquisition of right of way to the ECOZONE; and
- c) The protection of watershed areas and natural assets valuable to the prosperity of the ECOZONE."

SEC. 6. Chapter VI, Section 51 of Republic Act No. 7916 is likewise amended, to read as follows:

"SEC. 51. *Ipsa Facto Clause.* - All privileges, benefits, advantages or exemptions granted to special economic zones under Republic Act No. 7227 AND OTHER LAWS CREATING ECOZONES, INCLUDING THOSE WHICH MAY BE LATER ON PASSED BY CONGRESS, shall *ipso facto* be accorded to special economic zones already created or to be created under this Act.

The free port status shall not be vested upon the new special economic zones.

SEC. 7. *Effectivity Clause.* - This Act shall take effect after fifteen (15) days following its publication in the *Official Gazette* or in two (2) newspapers of general circulation in the Philippines, whichever comes earlier.

Approved,

Senator Drilon. Mr. President, I ask that Sen. Sergio Osmeña III be recognized for the sponsorship of Senate Bill No. 1136.

The President. Sen. Sergio Osmeña III is recognized for the sponsorship of Senate Bill No. 1136 as reported out under Committee Report No. 2.

SPONSORSHIP SPEECH OF SENATOR OSMEÑA III

Senator Osmeña III. Thank you, Mr. President.

On February 24, 1995 then President Fidel V. Ramos signed three bills into law—Republic Act No. 7616, creating the Philippine Economic Zone Authority, now more popularly known as PEZA. The PEZA took the place of the EPZA or the Export Processing Zone Authority.

More than three years have elapsed, and the PEZA has proven itself more than equal to its mandate of encouraging and supporting investments in the development and operation of viable, world-class ecozones particularly in the countryside. These ecozones have indeed made significant contributions towards accelerating the creation of employment opportunities, and the growth and diversification of exports.

During the first year of the PEZA's operations, investments in ecozones surged to five times the level of the previous year, from P8.6 billion in 1994 to P52.5 billion in 1995. The influx of investments have continued to grow in succeeding years. Despite the Asian economic crisis, investments reached P160 billion last year and for the first six months of the current year P75.7 billion. The cumulative investments sunk into all these ecozones since 1995 now total P353.3 billion. These are real long-term investments in domestic productive capacities that can provide the foundations for economic growth and development, not some jittery short-term portfolio flows that render the economy so vulnerable to speculative attack and economic instability.

Today, the PEZA administers 101 ecozones throughout the country, 53 of which are already operational and the rest are in

different stages of development. The operational ecozones include 16 export processing zones established under the PEZA's forerunner, the EPZA. Of these, 11 are in Mindanao, 16 are in the Visayas, and the rest are in Luzon, concentrated in the nearby provinces of Cavite, Laguna and Batangas.

The 53 operational ecozones are host to a total of 844 export manufacturing enterprises employing a total of 652,868 workers, excluding the 423,218 workers employed by private ecozone administrators.

In 1997, ecozone enterprises manufactured US\$10.6 billion worth of exports, accounting for 49 percent of the country's receipts from non-traditional exports.

Indeed, the PEZA is an important building block in the country's economic development, and has proven itself worthy of the support of the entire government system.

Today, this humble representation takes to the floor of the Senate to seek the approval of the Body of Senate Bill No. 1136 on Committee Report No. 2, which proposes seven amendments that would correct certain flaws in the PEZA charter. These amendments seek to:

1. Install the Secretary of Trade and Industry as Chairman of the Board of Directors, and demote the PEZA Director General to Vice Chairman. Under the provisions of the present law, the Director General of the PEZA sits as chairman of the PEZA Board while the DTI Secretary merely sits as a member. This creates an absurd situation where a department secretary sits subordinate to the head of an attached agency. The amendment will allow the DTI Secretary to lend its broader perspective in the exercise of authority and supervision over the functions of the PEZA;

2. Expand the membership of the Board of Directors to include the Secretaries of the Department of Public Works and Highways, the Department of Environment and Natural Resources, the Department of Agriculture, the Department of Agrarian Reform, the President of the Philippine Industrial Estates Association to represent the private sector;

Experience has shown that support-site infrastructure is vital to the viability of an ecozone. Hence, coordination and the cooperation of the DPWH and the DENR are key in the development of ecozones.

The inclusion of the Department of Agriculture and the Department of Agrarian Reform reflects the policy objective of encouraging agro-industrial estates that would catalyze the modernization of our agricultural sector and link it to the

rest of the economy and the rest of the world.

3. Delegate the Legislature's power of eminent domain to the PEZA. The exercise of expropriation rights is essential in the PEZA's consolidation of land areas for the development of ecozones. Expropriation powers were heretofore bestowed upon its forerunner, the EPZA, under Section 23 of Presidential Decree No. 66. The existing law rather redundantly grants this power to government in general, rather than specifically to the PEZA. We seek to correct this;

4. Expand the definition of "ecozone" to include support facilities, such as residential and commercial establishments that cater to the needs of employees working inside the zone;

5. Exempt privately owned and managed or operated ecozones from interference by a government executive committee;

6. Exempt the PEZA from the provisions of the Salary Standardization Law, bestowing upon it the flexibility to set compensation standards that would be at par with the private sector and government-owned and administered special economic zones and financial institutions; and

7. Level the playing field among all special economic zones in the country by granting to them all privileges, benefits, advantages or exemptions granted to special economic zones under Republic Act No. 7227 and other laws creating ecozones, including those which may later on be passed by Congress.

The exemplary achievements of the PEZA speak for themselves. These achievements are particularly noteworthy in the light of the fact that the PEZA has succeeded in harnessing the vigor of private sector initiatives, rather than through reliance on the government's scarce resources.

Amid the bleak Asian economic landscape, the PEZA ecozones are among the few persistent bright spots in our economy. It gives us a strong reminder that despite the disruptive effects of speculative bubbles and the currency turmoil, our country can continue to attract footloose capital and technology in search of emerging markets and competitive labor inputs.

This humble representation therefore urges his esteemed colleagues in the Senate to join him in giving the economy a much-needed shot in the arm.

While we have no need for excessively fat and ineffective structures in the government bureaucracy, we can and should take measures to energize the economy with better government. A more competitive PEZA can be fashioned from the above

measure, and therefore, this representation urgently seeks for the approval of Senate Bill No. 1136.

Thank you, Mr. President.

The President. The Chair would like to thank Senator Osmeña III. The Majority Leader is recognized.

Senator Drilon. Mr. President, for the interpellation, Sen. Juan Flavio has requested to be recognized.

The President. Senator Flavio is recognized for interpellation.

Senator Flavio. Will my teacher in Economics 101 allow me to ask a few questions, Mr. President?

Senator Osmeña III. With pleasure, Mr. President, to the towering figure of the Senate from the highlands of the Cordilleras and the giant in the health and the rural development movement.

Senator Flavio. I would be satisfied with being called 6'2" in height.

My first question, Mr. President, is a clarification on Section 1 that refers to a redefinition of the "special economic zones" or "ecozones." It is my impression that in the new definition, we shall expand the meaning of ecozone to include support facilities such as residential and commercial establishments that cater to the needs of the employees working inside the zone. Is that impression correct, Mr. President?

Senator Osmeña III. That is correct, Mr. President. Ecozones need certain support facilities to make them viable. They need cafeterias, they need apartments for the employees, they need banking establishments operating inside. So, we must be able to include this in the composition of an ecozone.

Senator Flavio. Yes, Mr. President. My question, directly related to that expansion of the definition, Mr. President, relates to Section 24 of the original Republic Act No. 7916, which states that no local or national taxes will be imposed on the special economic zones.

So my question, Mr. President, is: Will that mean that the facilities such as residential and commercial establishments that cater to the needs of the employees working inside the zone will now be not subjected to local and national taxes as provided in Section 24 of the original Republic Act No. 7916?

Senator Osmeña III. That is correct, Mr. President.

In order to clarify matters, Section 24 really refers mainly to income tax. So in lieu of income tax, locators in the ecozone have to pay 5 percent of their gross revenue.

Senator Flavio. How about the taxes on the commercial establishments, Mr. President?

Senator Osmeña III. There are no taxes, Mr. President, at the present moment. They are exempt from all taxes—local or national imposed on business establishments operating within the ecozone.

Senator Flavio. I thank the distinguished senator for that clarification, Mr. President.

My second question is found on page 3, lines 18 to 19 which states that "except for privately owned managed or operated ecozones". Could we know if there are such private ecozones, and how they are regulated by government, Mr. President?

Senator Osmeña III. I thank the distinguished senator for that very important question, Mr. President.

Actually, there is a conflict in the present law as drawn up, because if we will check, Section 45 of Republic Act No. 7616, which deals with the relationship of the PEZA to privately owned industrial estates, states that "privately owned industrial estates shall retain their autonomy and independence and shall be monitored by the PEZA for the implementation of incentives."

What is happening right now, is that the PEZA is the one that manages and administers the privately owned and operated industrial zones or special economic zones because of the other provision which we seek to correct.

Senator Flavio. I thank the gentleman for that reply, Mr. President. My other question relates to the increase in the membership. On page 3, line 3, Mr. President, it says, and I read:

One representative from the investors/business sectors in the ecozone and the President of the Philippine Industrial....

At first blush, Mr. President, it seems to refer to only one and the same person. But when I counted, it seems that there are 13 and maybe, it means two.

At the proper time, I would like to introduce an amendment that would at least make it clearer maybe by adding a comma (,) between the words "ecozone" and "and" or reformulate so that it is clear that they are not one and the same person.

Senator Osmeña III. Gladly, Mr. President. And I thank

the gentleman for pointing that out. This refers to two members. The representative from investors, business sector in the ecozone, means the locators—those specific factories that have located there—while the President of the Philippine Industrial Estate Association represents the developers.

Mr. President, right now, out of the 101 ecozones in this country, only 11 have been developed by the government with government funds. The rest are all privately developed.

Senator Flavier. That really makes it clear that we are referring to two specific individuals as members of the board.

Senator Osmeña III. That is correct, Mr. President.

Senator Flavier. Mr. President, my next question relates to the exercise of eminent domain powers to the PEZA. To the best of my knowledge, that power is exclusive to the State.

For my education, could we know what agencies of the government are tasked to implement such eminent domain powers of the State and, corollarily, would the grant of such powers to PEZA not be open to abuse?

My concern is, what safeguards can we incorporate, unless the good senator will tell me that abuse is farfetched.

Senator Osmeña III. That was really an elucidating question, Mr. President. That was a question that was also in the mind of this representation as to how far this power might be abused.

Mr. President, upon doing some research and going back in memory, the power of eminent domain rests with the legislative branch, although the right to exercise it is traditionally lodged with the executive branch. But we have seen that Congress has even agreed to give the power of eminent domain to private franchise holders. This has been given to telecommunication companies like PLDT, to cable television companies, to water utility companies, in order to help them exercise their right to set up their utilities without encountering too many problems from the private owners of houses, streets or subdivisions.

How far can we go here? Perhaps, this Body can do some research. As far as this representation is concerned, I feel that because all the lands inside the ecozones have to be approved by the PEZA, it is really the PEZA that will be able to exercise this properly. So the power of eminent domain here is being given to a government agency, the PEZA, and not the private industrial estate.

Senator Flavier. I see. The brilliant question has been answered with a brilliant reply, Mr. President.

Finally, on page 4, lines 29 to 31, I notice a glaring statement that the new special economic zones are not vested with free port status. I was just wondering why this is so. If the other ecozones are vested with free port status, here we are saying very clearly that the new economic zones will not be vested with free port status.

It is just for curiosity, Mr. President.

Senator Osmeña III. Thank you for that question.

Mr. President, under Republic Act No. 7227, popularly known as the SBMA Law, although SBMA was only a part of the law—because this is really the Bases Conversion Development Authority Act—certain advantages were given to locators and to developers within Clark and Subic and other bases which might have been included later on under the purview of Republic Act No. 7227 which were not given to industrial estates or ecozones. With the exception of the free port status, the other industrial estates in this country would like to enjoy those other advantages. Now, there is a good marketing reason aside from an economic reason for this.

When we market our country abroad as a whole, we cannot say that if one goes to Cavite, this type of ecozone has any type of advantage; but if he goes to Clark, there is a better advantage. This will not afford us a level playing field for all the ecozones in this country.

Therefore, this particular clause seeks to render a more level playing field among all the industrial estates, special economic zones and tourism estates so that all these zones will be, at least, equally attractive to the foreign investor.

Senator Flavier. I thank the gentleman for the excellent replies. Thank you very much, Mr. President.

Senator Osmeña III. I thank the distinguished gentleman from the Cordilleras for his intelligent questions.

The President. Thank you, Sen. Juan M. Flavier.

The Majority Leader is recognized.

Senator Drilon. For the next interpellation, may we ask the Chair to recognize Sen. Juan Ponce Enrile.

The President. Sen. Juan Ponce Enrile is recognized for his interpellation.

Senator Enrile. Thank you, Mr. President. Will the distinguished sponsor, a very able and young member of the Senate, care to answer a few questions?

Senator Osmeña III. With pleasure, Mr. President, to the single-handed developer of the Cagayan Export Processing Zone.

Senator Enrile. Thank you, Mr. President. This is a project of the government. We do not have that kind of resource to produce a special economic zone and free port.

In the case of Section 6, Mr. President, which seeks to amend Section 51, the *Ipsa Facto Clause*, may I know if the special economic zones established under the PEZA law have a free port status?

Senator Osmeña III. No, Mr. President, the special economic zones under the PEZA law do not have free port status. In fact, on line 11 of that page, this particular amendment says, "The free port status shall not be vested upon the new special economic zones."

Senator Enrile. Republic Act No. 7227 is the law that created the Bases Conversion and Development Authority. Mr. President, may I know if the BCDA has any free port status other than the free port of Subic?

Senator Osmeña III. To my knowledge, I do not think so, Mr. President. However, might be wrong. I have not recently read RA No. 7227 in its entirety as to the particular free port status that the distinguished gentleman is asking about. I only know that it is Subic that was granted free port status. Not even Clark was granted free port status.

Senator Enrile. Thank you for that answer, Mr. President, because way back, when we were conducting some hearings with respect to some amendments of the PEZA law under the previous Congress—immediately preceding Congress—there was a suggestion of free port status for special economic zones. And I raised the question, "How can you have a free port status in an area that has no port?"

Senator Osmeña III. It must have access to the outside world, so either a seaport or an airport. And Clark has an airport. But I am not saying that Clark is a free port; it is not.

Senator Enrile. There was a suggestion that a special economic zone was to be proposed for Rizal with freedom from banking laws, free port status. That is why I am asking this question just to clarify. I have no special interest to object in any of these provisions. In fact, I think they are needed provisions.

Now, Mr. President, coming to the members of the board, can the gentleman spread into the *Record* the reason the Secretary of the Department of Environment and Natural Resources should be a member of the board?

Senator Osmeña III. Thank you for that question, Mr. President.

The DENR was recommended by the PEZA to be a member of the board because of the environment permits that are required and it speeds up matters if there is a DENR representative on the PEZA board.

Senator Enrile. How about the Secretary of the Department of Agrarian Reform, Mr. President? I have no objection for these people to become members of the board.

Senator Osmeña III. I understand, Mr. President, it is because some of the lands being converted, like say, in Cavite, Laguna or Batangas, are still under the DAR.

Senator Enrile. This is intended for coordination.

Senator Osmeña III. That is correct, Mr. President.

Senator Enrile. How about the Secretary of the Department of Agriculture, Mr. President?

Senator Osmeña III. That was my own proposal, Mr. President, because under the thrust of the government's agricultural program, I had recommended that it go more heavily into agro-industrial processing.

Senator Enrile. How about the Secretary of Public Works and Highways?

Senator Osmeña III. This is required, Mr. President, because of the need for roads, highways, bridges connecting the zone to the port. Many of these special economic zones are landlocked. They are not connected to a seaport or an airport, and sometimes it is just a matter of 1 kilometer of road that will make them viable. So we feel that the DPWH would be a necessary addition.

Senator Enrile. My last question, Mr. President, is this: According to this proposal, in case of the unavailability of the Secretary of the Department of Trade and Industry to attend the particular meeting, the director general of PEZA shall act as chairman. In fact, the director general is the vice chairman. But he is in the level of a bureau director.

Does the gentleman not think that by making him a chairman

of a board where other members of the Cabinet are members—and he is not even a member of the Cabinet—we are putting, in effect, the members of the Cabinet under the chairmanship of a low-level bureaucrat? I am not really that allergic, but I am just talking of the protocolar consideration.

Senator Osmeña III. I agree, Mr. President. It is a minor problem, but it still gave us some headaches. Actually, the PEZA head has the rank of undersecretary. That is just one rank below secretary.

Now, why should he preside if the secretaries of other departments attend? In normal practice, the secretaries of other departments do not attend. They usually send an undersecretary, an assistant secretary or even somebody lower in rank.

As a matter of fact, the gentleman will notice that the last line states that “the representative designated by the secretary shall in no case be holding a position lower than assistant secretary.” Because sometimes they just send their messenger boys there to attend in their place in order to obtain a quorum.

Senator Enrile. Why do they not require an undersecretary to represent the head of the Cabinet in order to achieve the objective of coordination?

For instance, we have a problem of the environmental certificate, ECC, or problem of conversion of the land. At least if it is an undersecretary level, he could report the matter directly to his or her secretary and things will move faster.

Senator Osmeña III. I have no objection to that, Mr. President. If during the period of amendments, the gentleman would wish to propose an amendment to that effect, I would be glad to consider it.

Senator Enrile. Thank you, Mr. President.

Senator Osmeña III. Thank you.

The President. The Majority Leader is recognized.

Senator Drilon. Mr. President, Sen. Renato L. Cayetano has requested to be recognized for interpellation.

The President. Sen. Renato L. Cayetano is recognized for interpellation.

Senator Cayetano. Will the gentleman yield for some questions, Mr. President?

Senator Osmeña III. With pleasure, Mr. President, to the

gentleman from Taguig, city of Muntinlupa, Bulacan and Pateros.

Senator Cayetano. Thank you, Mr. President. First of all, let me congratulate the brilliant sponsorship of the gentleman of Senate Bill No. 1136. I just have very few questions. In fact, many of them are observations.

As we know, this representation, once upon a time, was the administrator of the Export Processing Zone Authority, the forerunner of PEZA. Indeed, some of the aberrations being sought to be corrected by Senate Bill No. 1136, I would say, are long in coming and pretty well justified.

In view of what this representation actually experienced as administrator of the Export Processing Zone Authority, for instance, it seems really anomalous that the PEZA director-general presides over the meeting of the PEZA board, instead of the Secretary of the Department of Trade and Industry under the PEZA Law.

During this representation's incumbency under Presidential Decree No. 66, the chairman of the EPZA Board was the Minister of Trade and Industry and the concurrent vice chairman was the Administrator of the Export Zone Authority. The proposal here to make the Secretary of Trade and Industry is well-supported by experience.

Let me just also allude to the proposal to exempt from the provision of the Compensation and Position Classification Act under Republic Act No. 6758. May I know the reason why the PEZA personnel are being sought to be exempted from this provision of the law?

Senator Osmeña III. Thank you, Mr. President. Actually, the main reason is that in the PEZA, we need more sophisticated personnel because they deal with locators and investors from all over the world who are involved in rather intricate financial arrangements and high-tech manufacturing. We would be unable to hire the type or the caliber of people we need if we continue to pay salaries according to the standard government rate.

In fact, this Chamber has exempted several government-owned or -controlled financial institutions in the recent past from the Salary Standardization Act, including but not limited to, the GSIS, the SSS and the Land Bank.

Senator Cayetano. Again, Mr. President, based on experience, the observation of the gentleman is not only accurate, but indeed that is a situation that now permeates the compensation scheme of PEZA. PEZA, as we know, is really a specialized agency. It requires a specialized group of individuals with

knowledge not only of location of economic zones but as well as marketing, accounting and other unique circumstances that would require the successful operation of PEZA. But if the personnel of PEZA would be exempted, who would determine the scale of compensation of the PEZA personnel, Mr. President?

Senator Osmeña III. Actually, Mr. President, the amendment states that the salary scale shall be commensurate with private industry standards as will be determined by the Board of Directors of PEZA. That is the normal phrase used in the other GFIs that I studied. But I included something that the other GFIs did not have. I gave the Secretary of Trade and Industry the veto power so that if the PEZA Board should subject this privilege to abuse, the Secretary of the Department of Trade and Industry can put a stop to it and can limit any increase in salaries.

Senator Cayetano. At the present, Mr. President, going to another matter, as correctly observed by the sponsor of the bill, the power of eminent domain lies not with PEZA itself but with the government. Under this proposal, PEZA is being authorized to exercise this power of eminent domain. Is it not correct, Mr. President?

Senator Osmeña III. The gentleman is correct, Mr. President. As a matter of fact, in the old EPZA bill or P.D. No. 66, EPZA was given the power of eminent domain or granted the power of eminent domain. However, this might have been overlooked and the amendment only consists of substituting one word "PEZA" for the word "government."

Senator Cayetano. Well, I know, Mr. President. Again, based on experience, the gentleman is correct that under P.D. No. 66, EPZA then was granted the power of eminent domain.

May I just make as an observation that this power of eminent domain is a very powerful and coercive authority to be exercised by PEZA and that, if PEZA would be given this power of eminent domain, it behooves us to remind PEZA that this should be used sparingly and also to ensure that the prices of land are not overpriced. What then would be, shall we say, the checks or limitations if this power of eminent domain for some reasons, Mr. President, is abused by PEZA?

Senator Osmeña III. The Secretary of Trade and Industry and also the members of the board which represent other department heads have the power to control the director-general of PEZA.

Now, Mr. President, may I remind this Chamber that it has granted, first, to my disbelief, the power of eminent domain to private enterprises like utility companies, telecommunications companies, cable TV companies in all its past franchises and

granting the power of eminent domain to a government agency, I believe, is far safer than granting that same power to a privately owned and controlled corporation.

So far, Mr. President, there has been no instance of abuse. I am not saying there has not been any but I have not heard of any instance of abuse by those privately owned and operated public utilities in exercising their power of eminent domain, and I would presume that the PEZA will not also engage in any abuse in exercising theirs.

Senator Cayetano. Well, let me make my position very clear, Mr. President. I am in favor of granting PEZA the power of eminent domain.

On another matter, Mr. President, is there a necessity to include in this amendatory bill the express inclusion of the so-called support facilities, such as residential and commercial establishments that cater to the needs of the employees working inside the zone? Is that really necessary, Mr. President?

As far as I recall, Mr. President, in Bataan, for instance, as well as in Cavite, and to a certain extent Baguio, as soon as an export zone was established in that respective locality, the support facilities were immediately built by private enterprises, of course, under licensed by the then EPZA.

Is it the proposition of the gentleman, Mr. President, that these support activities or facilities should be run and operated by PEZA itself? Or could it be run and operated by private enterprises subject to licensing by PEZA?

Senator Osmeña III. They could be run and operated. As a matter of fact, many of them are run and operated by private enterprises subject to the approval of the owner, the developer or manager of the Special Economic Zone and PEZA.

Like banks, for example, Mr. President, the Bank of PI or the Far East Bank would have branches within the Export Processing Zone and they are required to pay income taxes on whatever they earn, within the zone. But this amendment just makes it easier to set up such support facilities inside the zone rather than depend on private endeavors outside the zone.

Senator Cayetano. My only observation there, Mr. President, is that PEZA authority may decide to put up housing and commercial activities which, although the gentleman correctly pointed out, are really support facilities, but they may primarily engage in housing and commercial activities as a primary goal, rather than putting up an ecozone in a locality where housing and commercial centers are primarily support facilities and not the principal endeavor of PEZA.

Senator Osmeña III. If that is a sincere concern of the distinguished gentleman, then this representation would be open to an amendment, providing that the PEZA does not engage in any of these support activities whether in the residential or commercial establishments inside the zone.

Senator Cayetano. Perhaps, Mr. President, at the suggestion of the good gentleman, I will do that.

Finally, Mr. President, just for clarification. The amendatory bill seeks to exempt privately owned and managed or operated ecozone from the government executive committee. I would imagine the so-called government executive committee would be the PEZA. Is that right?

Senator Osmeña III. It is the PEZA. May I read the dispositive portion to the Chamber. Section 15, of Republic Act No. 7916, provides that:

Each ecozone shall be organized, administered, managed and operated by an ecozone executive committee composed of the following: The administrator shall be appointed by the PEZA Board upon the recommendation of the Director-General and one deputy administrator to be appointed by the PEZA board upon the recommendation of the Director-General.

So the ecozones are really managed by the PEZA.

But looking further to Section 45, Mr. President, of Republic Act No. 7916, which provides:

Privately owned industrial estates shall retain their autonomy and independence and shall be monitored by the PEZA for the implementation of incentives.

So perhaps, the original intent of the framers of this law is that if private investors develop industrial estates, they should not be under the management of PEZA but merely supervised and regulated by PEZA.

Senator Cayetano. That is also my understanding, Mr. President, because the advent of industrial zone is really of recent development. During the life of the Export Processing Zone Authority, I could hardly remember any industrial zone having been licensed by EPZA, although at the time, there were the so-called special zones which are really fully working industrial complex like, if I recall, the Shell Refinery in Batangas and I think another one in Leyte.

But the point, Mr. President, is when it is proposed to

exempt privately owned or operated ecozone, it does not mean to say that the PEZA will completely relinquish its supervisory power over these privately owned or operated ecozone. Is that correct?

Senator Osmeña III. That is correct, Mr. President. The PEZA still has the power of supervision, regulation, registering the locators therein, and administering the tax incentives within the ecozone.

Senator Cayetano. In fact, Mr. President, if I recall, unless it has been changed, these privately owned economic zones or industrial zones are guarded by PEZA security guards to ensure that the goods that come in and out of these privately owned or managed ecozone follow the Customs laws.

With that assurance from the gentleman, I have no doubt that this amendatory bill will certainly strengthen and help PEZA in its mandate.

For the record, let me congratulate not only the gentleman but also the PEZA personnel headed by no less than Director-General Lilia de Lima for a job well done for the last several years. We can do no less but support them.

Thank you, Mr. President.

Senator Osmeña III. Thank you, Mr. President.

Senator Drilon. Mr. President.

The President. The Majority Leader is recognized.

Senator Drilon. May we ask the Chair to recognize Sen. Loren Legarda-Leviste for her interpellation.

The President. Sen. Loren Legarda-Leviste is recognized.

Senator Legarda-Leviste. Thank you, Mr. President. May I request the honorable senator to yield for some questions from this humble representation for my enlightenment.

The President. If he so desires.

Senator Osmeña III. With great pleasure, Mr. President, to the lady senator from Antique and Metro Manila.

Senator Legarda-Leviste. Thank you, Mr. President. Just a few points for my enlightenment and education. May I ask the distinguished senator about the benefits and privileges granted to corporations and industries found within the PEZA.

Senator Osmeña III. That would take me about half an hour, Mr. President.

Senator Legarda-Leviste. Just the most salient features of the most important benefits of the corporations found within the PEZA. Maybe the top three benefits apart from being duty free.

Senator Osmeña III. The best benefit that one could have by being inside PEZA is an income tax holiday from four to eight years; duty and tax free importation of capital equipment and production requirements; zero-VAT rating of local purchases for production; exemption from local taxes, licenses, except the real property tax; and after the income tax holiday, exemption from all national taxes and in lieu thereof, payment of a 5-percent tax on gross receipts.

Senator Legarda-Leviste. Thank you, Mr. President. I was wondering. Are there safety measures that have been introduced so that ecozones or so-called Special Economic Zones do not become a venue for smuggling or dumping of foreign goods?

Senator Osmeña III. Just maybe one or two minutes ago, the distinguished gentleman from Taguig, Pateros, Bulacan and the City of Muntinlupa mentioned that he was EPZA administrator at one time, and that he is aware that all export processing zones are guarded by special PEZA policemen in order to police the flow of goods in and out of those special economic zones.

Senator Legarda-Leviste. Mr. President, does the distinguished gentleman believe that these guarded procedures are adequate enough to ensure that these PEZAs are not utilized as venues for smuggling?

Senator Osmeña III. We were not asked to examine that part of the operation of PEZA under this amendatory bill, Mr. President. Perhaps, if the lady would like to introduce a resolution to that effect, then the proper committee could be asked or tasked to conduct an inquiry as to whether all export processing zones, industrial zones and free ports have adequate measures and safeguards in place to ensure that smuggling does not take place.

Senator Legarda-Leviste. Just for my information, Mr. President. How many PEZAs are there all over the country presently?

Senator Osmeña III. As of today, 101 have been registered, and about 53 are in various stages of operations.

Senator Legarda-Leviste. And even those PEZAs like the industrial parks run by real estate companies, do they all fall

under the PEZA authority? Are they granted the same kind of benefits as those initiated or run by government?

Senator Osmeña III. Not necessarily, Mr. President. Someone might have an industrial estate and not apply to the PEZA for the granting of those special benefits. Up to this time, the PEZA has never granted permit to an industrial estate.

Under Republic Act No. 7916, special economic zone is a generic term. It can include, in ascending order perhaps, industrial estates—and these are estates where locators cater mostly to the domestic market—export processing zones, just like the Mactan Export Processing Zone in Cebu and the Bataan Export Processing Zone, then free ports, and then recreation centers or tourism estates.

Under the first category, that of industrial estate, the PEZA officials have informed me that they have never granted industrial estate any status under the Special Economic Zone bill, because they felt that that would be unfair to other local industries that are located outside an industrial estate.

Senator Legarda-Leviste. Mr. President, out of the 101 PEZAs all over the country presently, how much employment does PEZA generate?

Senator Osmeña III. As I mentioned in my sponsorship speech, Mr. President, roughly in excess of 650,000.

Senator Legarda-Leviste. What is the total aggregate revenues given to government, Mr. President?

Senator Osmeña III. I am not aware of that. I remember that an industrial estate was not established so much as to generate revenues for government—that is why tax incentives were given—but to generate exports and employment.

Senator Legarda-Leviste. If I understand it correctly, 5 percent is given to the government, Mr. President.

Senator Osmeña III. That is correct. After the four-, six- or eight-year tax-free period, then the locator in the special economic zone enjoys a tax regime of only 5 percent on gross revenues in lieu of all other taxes.

As of now, Mr. President, perhaps anticipating the follow-up question of the distinguished senator, it would be difficult to judge whether export processing zones or special economic zones have generated revenues for government because the locators there are in various stages of development. Some have been there only one year, two years, three years, four years. Probably, most of them are still enjoying tax-free status.

But, again, the main reason for this bill is not so much as to generate revenues for the government but to generate employment for our people, which in the same manner, is just about answering the same thing because whatever taxes we generate, we tend to spend on behalf of the Filipino people.

Senator Legarda-Leviste. Mr. President, may this representation be enlightened on the process of selecting a site for a PEZA? Who has the sole granting authority to decide which would be a suitable site for setting up a PEZA, and what are the basic criteria for such?

Senator Osmeña III. There are many ways of approaching that, Mr. President. Originally, the government was the one that picked out the original export processing sites, like the one in Mactan, Cebu, the one in Cavite and in Bataan.

Second. Under Republic Act No. 7916, there were generic or general areas, like the City of Zamboanga, Aurora and other provinces. I think they pinpointed about 80 or 90 areas where special economic zones could be established. But that was neither here nor there because the metes and bounds and the actual delineation of the areas were never actually pinpointed.

Third. A private developer could go and apply to the PEZA and tell the PEZA, for example, that "I have 150 hectares close to the Batangas Port, and I would like to apply for a special economic zone status." If the PEZA board approves it, based on a set of criteria enunciated in the bill and in the implementing rules and regulations of the PEZA, then the PEZA would now go to the President of the Philippines and ask him to issue a proclamation order, saying that the 120 or 150 hectares are hereby declared a special economic zone.

Senator Legarda-Leviste. Finally, Mr. President, does the PEZA get its budget from the Department of Trade and Industry? If so, how much of the DTI budget goes to PEZA?

Senator Osmeña III. The PEZA, fortunately, generates its own income and does not partake of any part of the national budget.

Senator Legarda-Leviste. Would the honorable senator enlighten me on how much would be the average operational expenses and income of a PEZA?

Senator Osmeña III. I am sorry, we do not seem to have that information today because that was not within the purview of the bill. However, we shall be glad to have the PEZA officials furnish the lady senator's office with those figures.

Senator Legarda-Leviste. I therefore would like to

clarify my understanding on the matter that the DTI or the government does not spend a single centavo in any way, manner or form in running and operating a PEZA.

Senator Osmeña III. Mr. President, there are fees that are paid to the PEZA. The PEZA is an agency of the government. Therefore, if the PEZA spends for itself, it is like the government is spending for itself. But as a unit, it seems to be self-sustaining financially.

Senator Legarda-Leviste. With that, I would like to thank the honorable senator for enlightening this humble representation on some very basic but essential issues on the matter.

Thank you, Mr. President.

The President. The Chair would like to thank Sen. Loren Legarda-Leviste.

The Majority Leader is recognized.

Senator Drilon. Senator Pimentel has also requested for time to interpellate the sponsor. I ask that he be recognized.

The President. Senator Pimentel is recognized for interpellation.

Senator Pimentel. Mr. President, will the better groomed Senator Osmeña III respond to a few questions?

Senator Osmeña III. Gladly, Mr. President, to the giant Cebuano leader from Mindanao.

Senator Pimentel. Mr. President, actually, as an exponent of local government autonomy, my principal concern relative to this bill is the diminution of the power of control of local government units over their own territory.

When I make this remark, it is based on experience. Because when the industrial zone in Misamis Oriental was forcibly implanted in the territory of the municipality of Tagoloan, Misamis Oriental, out of 11 or 13 barangays originally belonging to Tagoloan, only four are now left within the jurisdiction of that municipality. So this has been a long-standing bone of contention between the authorities of the municipality and the industrial zone, the Philippine Veterans Development Corporation.

Will the gentleman, the sponsor of this bill, try to enlighten this representation on the kind of protection that will be afforded to local government units so that the experience of Tagoloan, Misamis Oriental, will not be replicated in the other areas?

Senator Osmeña III. Mr. President, at the outset, may I gently remind the gentleman that this bill does not seek to repeal or pass RA No. 7916. That has already been passed and the amendatory measures enunciated therein have nothing to do and will not affect the control or lack of control of the local government unit.

But in order to satisfy the gentleman's questions, in Sections 43 and 44 of the PEZA, Section 43 speaks of relationship with the regional development councils and Section 44 deals with the local government units. It reads as follows:

Except as herein provided, the local government units comprising the ecozone shall retain their basic autonomy and identity. The cities shall be governed by their respective charters and the municipalities shall operate and function in accordance with Republic Act No. 7160, otherwise known as the Pimentel Code of 1991.

Mr. President, I understand it became such a large problem in Tagoloan because the government practically got the whole town. I think there are about 2,000 or 3,000 hectares there that were included in the special economic zone.

But in practice, these industrial estates on special economic zones do not comprise more than 100 to 300 hectares and would be a small portion of the entire town.

Under the tax regime, the LGU gets 2 percent out of the 5 percent special tax on gross revenue. There is a 60-40 sharing between the national and the local government on the 5 percent taxes.

Senator Pimentel. Mr. President, that is a very good assurance. Nevertheless, even assuming that only a small portion of 100 or 200 hectares of a local government territory will be in effect placed under the management of the PEZA, if the area being covered happens to be prime land, the problem will still arise because we would in effect be reducing the jurisdictional authority of the local government unit over the "leftovers," as we might put it.

Senator Osmeña III. Thank you, Mr. President. Actually, "prime land" is a relative term. Is it prime relative to the rest of the town? Or is it prime relative to the rest of the country?

Essentially, opening up and running a PEZA is like any other real estate operation. The moment one prices oneself out of the market, nobody is going to come to him. Therefore nobody will open an ecozone in the middle of Makati, for example. He will site it as far as possible from Manila but close enough to a port of

entry, like, say, Batangas port. As we know, the most popular areas in the country today are those located in Cavite, in Laguna and in Batangas.

As far as prime land relative to the land within the town, again, Mr. President, this is a matter of economics. No PEZA operator or owner-developer will buy in the middle of town when they can buy in the outskirts of town where the land is cheaper. I do not think we have to worry about that.

Senator Pimentel. Mr. President, the gentleman was talking earlier about a 2 percent share of the 5 percent income?

Senator Osmeña III. Five percent of gross revenues in lieu of income and all other taxes.

Senator Pimentel. So gross revenues, Mr. President. Is that correct?

Senator Osmeña III. Gross income, yes. Gross revenues and gross income, Mr. President, mean the same practically in business.

Senator Pimentel. Can the distinguished gentleman kindly point out to this representation where in the proposed bill is that found?

Senator Osmeña III. It is not in the proposed bill, Mr. President. This is an amendatory bill so it is in the existing law which is Republic Act No. 7916. I will be glad to look for the location.

It is under Section 24, Mr. President.

Senator Pimentel. Of the existing law?

Senator Osmeña III. Of the existing law. "Exemption from taxes under the National Internal Revenue Code."

In lieu of paying taxes, 5% of gross income earned by all businesses and enterprises within the zone shall be remitted to the national government. This 5% shall be shared and distributed as follows: 3% to the national government; 1% to the local government units affected by the declaration of the ecozone in proportion to their population, land area and equal sharing factors; and 1% for the establishment of a development fund to be utilized for the development of the municipalities outside and contiguous to each ecozone.

I am sorry, Mr. President, I made a mistake.

Senator Pimentel. It is only 1 percent.

Senator Osmeña III. Actually, it is 1 percent to the municipality which is affected directly by the ecozone and 1 percent for municipalities that are adjacent or outside or contiguous to each ecozone.

Senator Pimentel. Mr. President, we can probably quibble about the percentages, but I would like to find out from the distinguished gentleman if he would have any specific objection to requiring the EPZA or the PEZA to directly remit to the local government units the equivalent of this percentage that will now be their share of the gross revenue in their locality which will take the place of taxes and the share of income?

Senator Osmeña III. I would have no objection to that, Mr. President. I do not know if there will be an administrative problem because who will check whether the locator has actually delivered the entire 5 percent. It may be hard for the PEZA to check it.

Perhaps, we should first find out from the PEZA how long it takes between the time that a locator pays the 5 percent and the time the 1 percent is received by the LGU. I understand it is the BIR that collects, Mr. President.

Senator Pimentel. Yes. My point is not to require the locator but the PEZA in that particular place to do the remittance directly to the local government units concerned instead of sending the money to Manila first and then remitting it again to the local government units.

Senator Osmeña III. I understand, Mr. President—I was just informed—that the payment is not made to PEZA but to the Bureau of Internal Revenue.

Senator Pimentel. So probably, if the distinguished gentleman will have no objection, maybe we can require the local internal revenue agency to remit the share of the local government unit directly corresponding to the percentages that he has mentioned.

Senator Osmeña III. I have no objection but perhaps, we should ask the chairman of the Ways and Means Committee because the BIR falls under his purview and it is a matter of the administrative amendments to the administration of the BIR. Perhaps, this is a question that should be best addressed to the chairman of the Ways and Means Committee.

Senator Pimentel. I did not hear that particular point. I do not think the distinguished gentleman will have any objection, Mr. President. *[Laughter]* Let me proceed.

On the issue of the police, Mr. President. Again, by the

experience at the Phividec, this has been a source of contention between the local government unit and the Phividec authorities for the reason that apparently, the Phividec is maintaining its own police force within the municipality of Tagoloan which has also its own police force.

Would it be possible, Mr. President, to invest the local police force with the duty of also maintaining law and order within the PEZA?

Senator Osmeña III. That might not work out quite the way the distinguished senator would want it. If these are just small areas like 200, 300, 400 hectares and it is privately owned and managed, I doubt if the police forces have any business going in there. Perhaps, in Tagoloan, because it is a government facility, there may be some question. But as we can see, even in greater Manila and other urban areas, Mr. President, the police are not encouraged anyway to enter private subdivisions which already have their own local guards.

Senator Pimentel. So what is probably envisioned here are private security agencies being employed.

Senator Osmeña III. And the PEZA police, Mr. President, because they act as customs guards to make sure that no smuggling goes on in the special economic zones.

Senator Pimentel. Or to abet smuggling as the case may be, Mr. President, in some circumstances.

Senator Osmeña III. Perhaps.

Senator Pimentel. In any event, what I am really worried about is the situation that happened in Subic, Mr. President. At the height of the controversy, there were reports that Mr. Gordon was banking on the support of the Subic police to thwart the processes of the law being implemented in that area. Will that possibility arise in any of the PEZAs that we are envisioning here?

Senator Osmeña III. That is possible if it is large enough, Mr. President. Actually, most of the PEZAs are quite small. Aside from Tagoloan, I think everything else is really miniscule. Republic Act No. 7916 does not quite cover Clark and Subic; that is covered by Republic Act No. 7227.

So aside from Tagoloan where I really have seen the situation with my own eyes, Mr. President, the problem engendered by having too large an area suddenly placed under government control without having even enough locators to provide the minimum income to pay for its upkeep, I would imagine that would be a problem. Perhaps, we can conduct an inquiry on Tagoloan itself and perhaps, return some of the land

that has been expropriated because these have not been fully utilized by the Philippine government or the Phividec authorities.

Senator Pimentel. I thank the gentleman for that particular suggestion, Mr. President. I would really wish to ask his committee to kindly take a look specifically on the problems being faced by the people and local government of Tagoloan because that has been pestering for a long long time.

Senator Osmeña III. If the distinguished gentleman would be kind enough to draw up the resolution and file it, then I believe that the members of the Committee on Economic Affairs would be more than willing to conduct an inquiry into the situation in Tagoloan, Mr. President.

Senator Pimentel. We will do that, Mr. President.

Another point, Mr. President. I understand that there will be *ex officio* directors for the PEZA board coming from the various line departments?

Senator Osmeña III. That is correct, Mr. President, there are nine already, and we have just expanded them from nine to 13.

Senator Pimentel. My understanding, Mr. President, is that the Compensation and Classification Act of 1989 will not apply to PEZA and the standards of their benefits and salaries and probably, the emoluments of the director will be commensurate with the private industry standards.

I am afraid, Mr. President, that if we allow this particular provision, as worded, we will be creating a slush fund as it was for department heads to mine and dig into which could be contrary to other existing directions emanating from the Executive department as well as from this Body which would try to prohibit the holding of multiple directorships. This will be a very attractive proposition.

Senator Osmeña III. I understand the concern of the distinguished senator and fully appreciate it. But in this case, *ex officio* members—which are necessary because this is a coordinative body and representatives from various other line agencies and departments are required to sit in the PEZA board—only receive honoraria and they will not be getting any large emolument or salary. That can be set by Congress if it so wishes or a cap could be established so as not to abuse it.

I remember that the distinguished gentleman from the Cordilleras filed a bill along similar lines. If we take a look at that bill and pass it, we could standardize honoraria all over the government so that in a government-owned or controlled corporation,

the members of the board of one GOCC or GFI will not be receiving more than that of another GOCC or GFI.

Senator Pimentel. Yes, Mr. President. I think it is very important that a cap be placed so that this particular “reward” for being a member of the PEZA board will not be abused by those who are already holding high public positions in government. Probably, at the proper time, amendments can be introduced to actualize the intention to prevent an abuse in the grant of benefits or even honoraria as the gentleman has mentioned.

Senator Osmeña III. Thank you. Mr. President, with all due respect, perhaps this is an issue that could be best or better addressed by conducting hearings and the passage of the bill sponsored by Senator Flavio which would cover the entire government. It would allow the Senate to have a better overview on the various types of honoraria or wages and salaries being received in various boards of various government corporations today with the view to standardizing them and also minimizing their abuse.

Senator Pimentel. Mr. President, in the gentleman’s sponsorship speech, he mentioned that there are 11 special economic zones in Mindanao. I wonder if the gentleman is aware of the fact that of these 11 new economic zones, there is only one which is actually operational and that is the Phividec zone in Misamis Oriental, my home province.

Senator Osmeña III. No, Mr. President. I did not actually examine which ecozones were operating and not operating. I just mentioned that statistics by way of background to the bill, but we were not asked under this bill to check on the operational feature or success of the PEZA. However, if I may ask for a one-minute suspension, we will try to obtain those figures if they are available here.

Senator Pimentel. Make that two minutes, Mr. President.

SUSPENSION OF SESSION

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

It was 6:13 p.m.

RESUMPTION OF SESSION

At 6:14 p.m., the session was resumed.

The President. The session is resumed.

Senator Osmeña III. Mr. President, there are four

ecozones about to operate or which have become operational in Zamboanga. One is the First Oriental Business and Industrial Park in Davao Oriental. Then we have the Ayala de Zamboanga Industrial Park which I know is not yet operational because that is around the Sta. Cruz area and I was there a few months ago. We have the Tubay Agri-Processing Center in Agusan del Norte which is about to become operational. The Samal Casino Tourism Estate is partially operational. I think it already has 50 out of 300 units in operation.

Senator Pimentel. I thank the gentleman for those statistics, but can the gentleman kindly inform us the reasons why of the 11 identified special economic zones in Mindanao, only one is actually operating as of today?

Senator Osmeña III. Mr. President, this is a market-driven approach. These were not started as export processing zones by the PEZA. These were started by private investors or private groups or private corporations. Therefore, the PEZA cannot be blamed if industrial parks or special economic zones are not established in certain areas of the country because they have merely left it to the private sector or developers to establish these export processing zones.

The four original sites were established by government to get the ball rolling. Since then it has been a policy of the government to let the private sector become the engine of growth, and to let them be the ones to establish industrial parks, special economic zones and to apply with the PEZA for the incentives.

In other words, Mr. President, this is not the fault of PEZA any longer. If a certain area of the country does not develop, it is simply because, based on hard-nosed economic decisions, investors have decided not to locate there, at least in critical masses to warrant the establishment of an industrial estate.

Senator Pimentel. Would one of the factors which hard-nosed investors would probably consider be the presence or absence of infrastructure, Mr. President?

Senator Osmeña III. Yes, that is very important, Mr. President. The basic infrastructure—water, lights, roads, ports, airports, bridges and telecommunications—are very basic if somebody wants to establish a business in a particular area. And peace and order is an added factor.

Senator Pimentel. Yes, certainly, Mr. President. Therefore, considering these factors which the gentleman has kindly admitted to be indispensable to a successful operation of a special economic zone, can we say with his approval that indeed, in this respect, Mindanao has been neglected to a large extent?

Senator Osmeña III. To a large extent is just putting it mildly.

Senator Pimentel. Thank you, Mr. President. At the proper time, this representation will try to introduce proposed amendments in some parts of the bill. At this point, allow me to thank the gentleman for a very well-reasoned and disciplined approach to this problem of EPZAs.

Senator Osmeña III. We are very grateful to the gentleman from Mindanao for propounding elucidating questions and we look forward to the presentation of his amendments during the period of amendments.

Thank you, Mr. President.

The President. I thank Sen. Aquilino Q. Pimentel Jr.

The Majority Leader is recognized.

SUSPENSION OF SESSION

Senator Drilon. Mr. President, Sen. Raul S. Roco has made a reservation to interpellate. He is not in the hall right now. May I ask for a one-minute suspension of the session.

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

It was 6:17 p.m.

RESUMPTION OF SESSION

At 6:19 p.m., the session was resumed.

The President. The session is resumed. The Majority Leader is recognized.

Senator Drilon. Mr. President, we have previously manifested that Senator Roco was next to interpellate. But with his indulgence, Sen. Ramon Revilla has requested to be given the opportunity to interpellate first. Therefore, we ask the Chair to recognize Sen. Ramon Revilla for the interpellation.

The President. Sen. Ramon Revilla is recognized for interpellation.

Senator Revilla. Thank you, Mr. President. Will the distinguished and handsome sponsor of this measure yield for some clarificatory questions?

Senator Osmeña III. With pleasure, Mr. President, to the

handsomer magic man from the historic province of Cavite.

Senator Revilla. Mr. President, in Section 5 of Senate Bill No. 1136, it was provided that an ecozone may be expanded when necessary. May the distinguished sponsor comment on a possible conflict that this bill will have on the implementation of the Comprehensive Agrarian Reform Law? I just want to put on record a conflict on our priorities, if there would be any, whether this expansion of ecozones may affect the implementation of our CARP.

Senator Osmeña III. Thank you, Mr. President, for that question. That is a good question. But the bill did not seek to check into the possible conflict between the Comprehensive Agrarian Reform Program and the expansion of the ecozones.

Basically what is happening, Mr. President, is this: Ecozones are being developed based on the legal or illegal purchases of CLOAS in many areas; not in all areas, but in many areas. And if this is against the law, I take that it is the duty of the PEZA to make sure that that does not happen.

Otherwise, we have to presume, as we presumed when we conducted hearings on this bill, that the purchase of the land for the establishment of a special economic zone is valid and legal. That they have been in consonance with all the national and local laws governing that particular area.

Senator Revilla. Mr. President, if the farmer does not want to sell his property, what will happen?

Senator Osmeña III. If the farmer does not want to sell his property, I doubt if the applicant for a special economic zone can validly justify his particular application.

Mr. President, as we can see, based on present practice, a private developer consolidates land, makes a feasibility study, and determines if it would be viable as an ecozone. After that he applies to the PEZA board for approval of his ecozone application, and then the PEZA board goes to the President of the Philippines who then issues a proclamation declaring a particular area a special economic zone. Therefore, it is up to the PEZA board to investigate whether all laws have been complied with before it makes the recommendation to the President.

But, Mr. President, perhaps the distinguished gentleman from Cavite will happily note that one of our amendments to this bill is the inclusion of the Secretary of the Department of Agrarian Reform in the PEZA board.

Senator Revilla. Thank you. Now, Mr. President, on page 2, paragraph 3, lines 19 to 20, ano po ang dahilan kung bakit ang

membership ay lumaki? Naging 13 instead of eight? Ano po ang dahilan at iyan ay pinarami ng 13?

Senator Osmeña III. Actually, siyam po ang original. Tinanggal ko po ang Bangko Sentral ng Pilipinas sapagkat hindi naman kailangan ngayon diyan at in-expand namin. Kamuntik nang umabot ng 15 ito ngunit na-cut down sa 13 para mas madaling magkaroon ng quorum.

Iyong lima naming idinagdag sa board of PEZA ay importante po para sa smooth implementation ng batas na ito. Ito iyong secretary or the representatives of the Department of Environment and Natural Resources, Department of Agrarian Reform, Department of Agriculture, Department of Public Works at saka iyong presidente ng Philippine Industrial Estates Association.

Senator Revilla. Iyon lamang po, Mr. Handsome. Salamat po.

Senator Osmeña III. Ako ay nagpapasalamat sa pinakaguwapong senador mula sa Cavite.

The President. Thank you, Senator Revilla.

Senator Drilon. May I now ask the Chair to recognize Sen. Raul S. Roco.

The President. Sen. Raul S. Roco is recognized.

Senator Roco. Thank you, Mr. President. We do not know if he wants to make reservations for the gentleman from Mindanao. When Senator Osmeña, Senator Pimentel and this representation were campaigning together, we maintained that we were handsomer than the rest of the team. *[Laughter]*

Will the distinguished gentleman yield to some questions, Mr. President?

Senator Osmeña III. With pleasure, Mr. President, to the captain of the *pogi* team in the 1995 elections.

Senator Roco. Let the record show that, Mr. President.

The President. Please proceed.

Senator Roco. Mr. President, I read through the speech of the gentleman, and I am struck by the number of modifications. I am also struck by the fact that after praising the performance of the PEZA and the ecozone as it is referred to here, after saying that they performed so well, the bill now proposes to demote the director-general. If they have been doing so well, then that should be to the credit of the director-general.

So may we know why the bill now seeks to demote instead of to promote, if they did so well?

Senator Osmeña III. Thank you, Mr. President, for that question. Actually, within the PEZA board, the director-general sits as chairman and her boss, the Secretary of the Department of Trade and Industry, sits as a mere member. This is anomalous because the PEZA is merely an attached agency of the Department of Trade and Industry, and the PEZA director-general only has a rank of undersecretary. So it just seeks to correct that little anomaly.

Senator Roco. So it is because of the anomaly. Maybe, Mr. President, there is another way of correcting it by promoting the PEZA director-general to Cabinet position.

Senator Osmeña III. Mr. President, perhaps in another bill. The distinguished gentleman from Bicol and Camarines Sur could make such an amendment.

Senator Roco. No, Mr. President. Since we are talking about it now, based on the premises, if all the contents of the speech here is correct that PEZA has had great performance, then the logical conclusion is to reward and not to punish. Reward by demoting, we punish; but by promoting her or him or whoever it is to Cabinet member, then we remove the anomaly. That is the only problem of this small anomaly. We promote him/her and make him/her a Cabinet member. And then, now that he/she is equal with the Secretary of the Department of Trade and Industry, there is no more anomaly.

Senator Osmeña III. That might be taken into consideration, Mr. President. Actually since 1995 when the original bill was filed in the Tenth Congress, it was the director-general herself who had been asking this representation to please pass the bill because she feels embarrassed everytime she presides over the board meeting and her boss is sitting as a mere member. The gentleman from Bicol and Camarines Sur should perhaps be careful about making such a proposal because otherwise the present chairman of the Subic Bay Metropolitan Authority might ask to be promoted to the level of President Estrada.

Senator Roco. That will be another matter, Mr. President. But for now, since we have praises for the performance of the director-general, I cannot follow the conclusion that therefore whoever occupies the position should be demoted. We must now accept either of two propositions: The performance had been bad, in which case, demote her; or if the performance had been good, then that is the reason we are rewarding her or him, then whoever that may be should be promoted.

To me, Mr. President, it is a question of logic, and either one or the other must be accepted by this Chamber.

Senator Osmeña III. Actually, Mr. President, like I said, it was the director-general herself who asked to be demoted in the board but promoted by having her salary increased and exempted from the Salary Standardization Act. This is her own personal choice.

Senator Roco. We will get to that then. This then is not a matter of principle, but let us concentrate on the principle. What is anomalous about a Cabinet member being a member? What is the anomaly about being a member and having the director-general acting as chairman, when the bill itself says that in the absence of the cabinet member, the Secretary of Trade and Industry, the director-general anyway shall act as chairman?

So if we are trying to remove an anomaly, then we are preserving the anomaly.

Senator Osmeña III. This is a matter of protocol, Mr. President. If the Secretary himself who is her boss, because the PEZA is an attached agency of the DTI, is not present and the Secretary is merely represented by another secretary or an assistant secretary, then the director-general herself takes over as presiding chairman of the board meeting.

As correctly pointed out by the distinguished gentleman from Cagayan, what if other department secretaries attend the board meeting? Would it not be anomalous that a mere undersecretary or somebody at the level of undersecretary is presiding over the board meeting, attended by Cabinet officials?

Therefore, this representation manifested his willingness to accept an amendment along those lines as may be propounded by the distinguished gentleman from Cagayan.

Senator Roco. Then we should address it—whether in the first place it is an anomaly because it seems to be assumed that it is anomalous. But the bill itself tends to contradict that because it recognizes that the director-general can act as chairman.

Let us then clarify our minds, Mr. President, about the anomalous situation. There is a principle called “primary jurisdiction” or “primary competence.” In areas of administration when the person has primary competence then he or she is considered superior even to the courts. Because the one with primary jurisdiction shall therefore be able to give the definitive opinion on the issue at hand.

In this particular case, Mr. President, as I understand the situation, since the director-general is full time and considering

the breadth of the administrative responsibilities, it seems to be very wide. One can suggest that the primary competence precisely developed and evolved by the director-general is the qualification that gives him or her the better authority and right to be chairman.

I suggest, Mr. President, that perhaps there is no anomaly except in protocol. But we must not stand on protocol. We must stand on principle. If the person is so good in managing why in heaven's name do we want another person to be chairman?

Can the distinguished sponsor show how many chairmanships and directorships the Secretary of Trade and industry has? How many they are now?

Senator Osmeña III. I have no idea as of this moment.

Senator Roco. Well, from what I have seen of them they have so many *ex officio* positions that what happen is that they cannot attend meetings; they cannot attend meetings and then they sent on junior or senior clerks, and they rotate. We have so many Cabinet members here, Mr. President, and they can testify to this—that they rotate.

So what happens is that these Cabinet members sitting in boards does not contribute to efficiency but to inefficiency. I am seriously suggesting that we retain the present law precisely because of the premises of the bill. And that, in living with the spirit of the Constitution which says that Cabinet members shall not hold any other office, we avoid all these going around the law because of the concept of *ex officio*. If we want the PEZA, the EPZA, and the ecozones to operate better, then we must have a permanent board and the chairperson of that board should be the director-general.

Senator Osmeña III. That is a very good suggestion, Mr. President. But in my mind, in the mind of this representation, this board is both policy-making and coordinative in nature, which is why there are *ex officio* representatives from various other departments which would make it easier for the development and establishment of special economic zones. And most of the *ex officio* positions of the Cabinet officials, as I understand it, Mr. President, are because of coordination rather than to render them extra emoluments in order to expand their income base.

In the case, for example, of the Cebu-Mactan airport, the *ex officio* chairman of the board is the Secretary of the Department of Transportation and Communications, and the general manager of the Mactan Airport is the vice chairman. And we just seek to pattern this after several other such boards that have been established along those lines.

As to the competency of running the PEZA, while there is no doubt that Lilia de Lima has done a good job, she has not been demoted from her position as chief executive officer. Her title in the PEZA is director-general.

The board is merely a policy-making body and it does not have any executive functions. This representation feels that if her direct boss, the Secretary of Trade and Industry, happens to be present at the PEZA Board meeting, then he should be given the honor of presiding over the meeting and the director-general herself has fully agreed with this.

Senator Roco. Yes. I think the point has been well discussed, Mr. President. We still disagree. We cannot find good reason based on protocol to do that. And I know the lady. She is from Camarines Sur, Mr. President, and that is why I want her promoted.

But beyond that, the premises itself of the bill suggests that maybe the motivating section—although the way I understand it, she is the one who asked for this—but maybe a misplaced sense of *delicadeza* because she is asking for exemption from the salaries. Maybe she is thinking as a trade, so she can be demoted a little. But those are personal considerations that do not affect policy, Mr. President. And so we can afford to look at it more objectively. But the point having been made, may I continue on to the other sections.

We now come, Mr. President, to eminent domain. Effectively, this small board is acting like government. It is like a mini-Cabinet, the way it is described in the bill. And on top of that, we delegate the power of eminent domain, like to expropriate for fair and just compensation to the PEZA.

May we know who exactly in PEZA will exercise this power?

Senator Osmeña III. It is the board, Mr. President. In the original law, Section 29 of Republic Act No. 7916, states: Sec. 29. *Eminent Domain.* The areas comprising an ECOZONE may be expanded or reduced when necessary. For this purpose, the government shall have the power to acquire, either by purchase, negotiation or condemnation proceedings, any private lands within or adjacent to the ECOZONE, et cetera.

In this sense, we are just asking for the replacement of the word "government" by the word "PEZA."

Senator Roco. Yes, but that is a tremendous alteration, Mr. President, because who in PEZA can therefore initiate eminent domain?

Senator Osmeña III. PEZA here refers to the board of

PEZA, Philippine Economic Zone Authority.

Senator Roco. So the board will initiate eminent domain. Why do we want to do this, Mr. President?

Senator Osmeña III. The board has come up against several problems because in the original EPZA law, it is specified that EPZA had the power of eminent domain. When Congress passed Republic Act No. 7916 and President Ramos signed it into law, that particular item was overlooked and the word "EPZA" was replaced by the word "government."

Actually, Congress does not have to give the government the power of eminent domain because that really rest with Congress and the executive branch traditionally executes the power that Congress has bestowed on it. It really meant PEZA.

However, there are several problems that have arisen with the original 11 PEZA zones wherein they have already allowed or started the development of the property. But because of this PEZA law and because of this particular wording where the word "EPZA" was changed to the word "government," the original landowners who have not yet settled on the valuation of the lands which have already been taken over by EPZA, which is now PEZA, are now questioning the right of PEZA to take over their land.

In Mactan, Cebu, there is a very huge problem there because the Uytengzu group which were the original landowners, I think, of one-half of the Mactan Export Processing Zone Authority, have successfully questioned in court the power of PEZA to expropriate because the new law says only the government can expropriate and there is a difference in their opinion and in the interpretation of some courts between government and PEZA as a specific agency. So this law seeks to correct that situation.

Senator Roco. So this proposal actually has an impact or effect on existing cases. Is this what I am being told, Mr. President? This will alter the legal situation in pending litigations.

Senator Osmeña III. The way I understand it—I am not a lawyer—EPZA had the power. EPZA began expropriation proceedings. EPZA began development based on its power of eminent domain and its future anticipation of success in its proceedings. Unfortunately, the PEZA law did not give the same power that Congress originally granted to EPZA. So, now, there are rather huge problems in several export processing zones because of the oversight by Congress in this particular instance.

Senator Roco. But, Mr. President, if we knowingly modify a law to alter a litigated situation, may that not suggest impropriety

on our part? Imagine we are passing a law to change the result of a legal case that is pending when there seems to be nothing wrong with the present law of saying that the government shall have the power to acquire. Of course, the government has the power to acquire. That can be litigated on that basis. But replacing the word "government" with the word "PEZA" not only alters the legal situation.

I am not altogether sure that it is a good procedure. Insofar as what I have heard from the distinguished sponsor, there are even private corporations granted this power. Maybe we should take it away from them because two errors will not improve the situation.

I realize, Mr. President, that the distinguished sponsor is not a member of the Bar. That is why I am trying to be more explicit. But eminent domain has always been construed very strictly. In fact, we are mandated by cases and the Constitution to frown on this delegation of eminent domain power. It is because of that that I am concerned with this amendment. And now that I am told it affects a pending case, especially in Cebu, considering that both the Senate President and the distinguished sponsor are from Cebu, it becomes awkward for the Chamber to do that. Whether we are favoring the government or not, it is better to leave the issue well enough alone.

That is the question I am posing, Mr. President.

Senator Osmeña III. I guess it would take a lawyer to answer the question of the distinguished gentleman the way he would want it answered. But as a layman, Mr. President, may I say that the PEZA law took the place of the old EPZA law which was created under Presidential Decree No. 66 on November 20, 1972.

Presidential Decree No. 66, which revised Republic Act No. 5490 and created the Export Processing Zone Authority, Section 23 thereof, under Eminent, Domain, granted to EPZA acquisition of rights of way or any property for the establishment of export processing zones, et cetera, low-cost housing projects for employees working in such zones, protection of watershed areas, construction of dams, reservoirs, wharves, piers, docks, keys, warehouses, and other terminal facilities, et cetera.

The PEZA was envisioned merely to be an improvement over the existing EPZA. As a matter of fact, the employees of EPZA became employees of PEZA, and so on and so forth.

Therefore, it can be, I think, easily proven in court that it was the intention of the government and the Congress to really grant the same powers to PEZA that it had originally granted to EPZA.

Mr. President, I do not think we would be unnecessarily

favoring the government in this particular case in Cebu for the simple reason that the area had already been developed for the past 15 years as EPZA, except that the question was overvaluation of the land. And the defense today of the original owners—that the PEZA does not have the power to expropriate—is not, to me, a layman, an acceptable defense.

Senator Roco. Yes, Mr. President, I really do not want to dwell on the merits of the case. But I fail to see what is wrong with the government having the power to acquire.

On the other hand, I have difficulty with substituting it to PEZA considering that the bill itself, and even in the explanation of the gentleman, in the fifth change in the law, says:

Exempt privately owned and managed or operated ecozones from interference by a government executive committee.

So now that we grant PEZA the power of eminent domain—and we also exempt it from government executive committee, and on top of that, we alter the legal situation in certain cases—suggests to me, Mr. President, that it is not a prudent course of action. And this is my submission.

It is not legalese. It is a question of policy. Should we, as a Senate, start intruding and changing the legal situation of pending cases? Or should we let them well enough alone?

After all, there is nothing unclear about the law. It is the government that has the power of eminent domain. The government and all these Cabinet members are there, that one of them absorbs the responsibility. That is the point I am trying to make, Mr. President.

Maybe the distinguished sponsor would want to explain No. 5. How do we exempt PEZA from interference by a government executive committee? How does this bill exempt the PEZA from government interference?

Senator Osmeña III. This bill does not exempt the PEZA from government interference, Mr. President. I think the distinguished senator from Bicol is reading this wrong.

This bill exempts the privately owned and managed or operated ecozones from being managed by the PEZA as they are being managed today. It gives them the right to be the operations manager of their own industrial estates without removing from PEZA the right to oversee, regulate, supervise and police the entire economic zone.

The PEZA authorities agree with this and the private developers have suggested it.

Senator Roco. May we then know who and what are these privately owned and managed or operated ecozones?

Senator Osmeña III. Mr. President, out of the 101 approved special economic zones in the country today, only four are owned by the Philippine government. The rest are all privately owned.

Senator Roco. So 105 will be...

Senator Osmeña III. No, Mr. President. It is 101, less four, 97.

Senator Roco. In these agencies that are exempt now from interference—I am just using the word of the speech—by the government executive committee, who initiates and how is the power of eminent domain sought to be exercised?

Senator Osmeña III. The power of eminent domain, as it was explained to me, will be exercised if a private developer will have need of a small sliver of land that he has been unable to buy, say, for access to his industrial estate. While this can be done privately through the courts, it tends to delay for uncertain period of time the development of the industrial estate. Therefore, they can apply with the PEZA to help them and utilize the PEZA's power of eminent domain in order to have right of way.

Mr. President, again I will bring back to the attention of this Chamber the fact that this Body has granted to so many hundreds of franchisees the power of eminent domain like cable TV companies, television companies, radio companies, telecommunication companies, water companies, et cetera. Perhaps if we cannot grant eminent domain to an agency which already enjoyed it for such a long time, I think we should revisit all those other grants of eminent domain to private corporations.

Senator Roco. I can be persuaded to go along on that matter, Mr. President. From what I understand really, eminent domain should not be extended so cavalierly or so liberally because we have always been told to be restrictive in this power of the government.

It is almost 7:00 o'clock, and I assume everybody has an appointment.

But before we continue, may we ask the distinguished sponsor to request the Cabinet to give us information on the number of positions or *ex officio* offices that they are holding? Because we are being made to approve again. I mean, we have our Secretary of Health, the Secretary of Labor and Employment, and we have the local government.

From my observation and experience, these Cabinet members enter a meeting—I do not care if they are geniuses—but they are really relying on their staff. They have to. So all this talk of superior judgment and experience and perspective is really emanating from a good staff. We might as well have a permanent designate—and we have done that under some of the agencies we have created under the last Senate—so that the Secretary or whoever is designated must be permanent. But to have an informed judgment on the matter, we would ask the sponsor to give us information and request the Cabinet how many *ex officio* positions they have so that we will see.

At that point, Mr. President, I suggest that the conclusion will be to authorize the director general. That is one.

No. 2. I think we have a list—and the staff can get this—of the cases that will be affected. Before, I stood up on the impropriety of changing a legal situation by law. Of course, we have the power. But when this matter affects property, I think the duty of diligence and prudence on the part of the Senate is at least to know that the following cases will be affected. So that we know who are the private parties that will be affected, whether advantageously or disadvantageously.

No. 3. Mr. President, these privately owned, I would like to know who are these 101 privately owned that are being run because can one imagine that we are granting one of the strongest powers of government—eminent domain—and 101 of them are privately owned and run? Why do we want to do that? Because Meralco already has it, maybe we should take it away from Meralco. It is the reverse.

The abuse of granting all these franchisees should not be an argument to further decimate government. So the conclusion again, Mr. President, does not follow. I do not see why we should grant them if it has been abused before. Maybe it is time precisely to stop doing this.

If the distinguished sponsor and the staff can come up with these, then can I reserve continuation on those three questions of fact since it is 6:56 p.m. and it will take me one-and-a-half hours to get to Quezon City.

Senator Osmeña III. Mr. President, I disagree. I do not think it is relevant how many other Board positions the Secretary of Trade and Industry or the Secretary of Urban Planning or whatever has at this particular point in time. Looking at it from the need of the PEZA to have these people in their board, it is to the advantage of the PEZA rather than the advantage of the secretaries. I am 110-percent sure that the Secretary of the Department of Agrarian Reform will complain that he has another board to coordinate in because he probably has several other boards

already that he has to attend to or that he has to send his representative to.

So I am going to ask this Chamber to decide it on that basis rather than to wait for this bill to be brought to the Chamber, depending upon the number of information we can get on how many other positions are held by the secretary, concurrent with their position as secretary of their department.

As to the second point, Mr. President, I do not think that it would be possible, given our very poor records system in this country, for us to find out how many cases are now pending. I would rest on my argument that this was a power that was already granted to EPZA and it is a power that is deserved by PEZA. It is not a power that is being given to the individual owners of the export processing zones or the special economic zones.

As to the last request, Mr. President, I shall be very glad to furnish the distinguished handsome gentleman from Bicol with a list of the 101 private special economic zones that have been approved by the PEZA and are now in various stages of operation, development or consolidation. I have the list right here, Mr. President.

Senator Roco. Yes, Mr. President. We welcome this list and we will look at them. But as far as the cases are concerned, are we being told that PEZA does not know cases of this nature? Is this what the staff is telling the gentleman? Considering that it impinges on their rights they do not know? Maybe we should look at them. Maybe they do not deserve to be praised so highly in the speech if they cannot even tell us what legal cases are pending that would affect this matter. Maybe we have overpraised them if they cannot tell us.

Can one imagine that department so efficiently run, et cetera, and not being able to tell us that there are cases? I cannot believe this. I mean, we better reexamine this staff.

Senator Osmeña III. Mr. President, I think that given time, they can do it. As a matter of fact, the lady who is assisting me here today is not a lawyer. She is not part of the legal department, so she is not acquainted with that particular problem. This is just, as a matter of fact, my private knowledge because coming from Cebu, I know they have a problem there.

But we are not introducing this amendment in the bill to solve the Cebu problem *per se* and to make it unfair to the original landowners of the land in question at Mactan Export Processing Zone.

However, Mr. President, because I do not wish to delay

the passage of this bill, I wish to manifest to this Chamber that I am not accepting that every piece of information is necessary for this Chamber to make a decision on this particular item of eminent domain.

While I shall be requesting the PEZA to research and try to come out with as many pending cases along the eminent domain problem that they may have pending today, I still would like to reserve my right to have the Chamber decide as to whether this is actually germane to the question of whether PEZA again deserves the right, as it had in the past, through its predecessor EPZA, to enjoy again the power of eminent domain.

Senator Roco. Mr. President, the issue was raised by the gentleman. I was not the one who was concerned about the cases but he demonstrated the effect on cases. And now that it is before the Chamber, we are entitled to full information and the Legal Department of PEZA should be able to identify whether this eminent domain question has an effect on whichever cases. It should be just a simple thing of listing down.

I am not against this bill, Mr. President. In fact, I was not going to ask questions but he asked me to ask questions so I studied it. I was going to rely on the committee judgment but he asked me to stand up. So now that I have studied it, I think the Chamber is entitled to information.

Mr. President, this thing of the Cabinet again should be easy. The Executive Secretary's office should have this listed. It is so easy. They are not even asked to delay, but I suggest that these are policy issues that we must confront. These are not just technicalities. These are policy issues that we must confront, especially if we will reorganize the government to make it more efficient. One of them should be to prevent creation of new offices because we keep on complaining about so many offices that render them inefficient and here we are merrily creating again the first agency under the 11th Congress and we add *ex-officio* offices.

To me these are serious policy issues, Mr. President. I have no desire to impede this bill, but there are constitutional standards that must be met by the delegation of eminent domain and I do not see it here. There are also constitutional standards, well, legal standards that must be met in the exemption from the Salary Standardization Law.

I have sponsored and acquiesced to so many exemptions, Mr. President, so I am not averse to this notion. But here, it says, "only at par."

May the distinguished gentleman tell us what that means, "at par or commensurate with private industry standards?" What private industry standards?

Senator Osmeña III. Mr. President, I just copied what the past Senate approved in the GSIS, SSS and Land Bank exemptions. I did not want to bother to improve on it. I rested on the judgment of our colleagues in the 10th Congress and I thought that this is what would satisfy Congress. But I even added an extra measure that one cannot find in the GSIS, SSS or in the Land Bank bill. I gave the department secretary the power to veto.

So that was an additional safeguard because I, myself, was not comfortable with a board that might become self-serving in setting their salary standards. I am not that happy about this, but if the past Senates, Congresses and the President of the Republic have been happy, then I guess that is the standard that we are setting as far as legislation is concerned.

The reason I have asked the distinguished gentleman from Bicol to study the bill and interpellate me is I know that with his experience and his eruditeness, he would be able to improve on the bill. That does not mean I shall accept every suggestion that he may propound, but that does mean that I do appreciate his having taken the trouble to read the bill and to help improve it.

Senator Roco. Mr. President, now that he has gotten me started, as we see, that is the problem with getting started because then we start going deeper into the law. But if the justification is it was copied from other bills, then that may not be sufficient justification. Because the Land Bank, for instance, when we refer to industry standards, it is banking and there are industry standards.

But what is the similar or analogical industry that is similar to ecozones or EPZA? That may be difficult. But when we talk of banks, there is a reference point. That is why, I am inquiring on this. I will ask for time to examine this and maybe I can find out who these people are.

I will settle for the cases in Cebu. But the Legal Department of EPZA must write to us that the officials cannot in fact come up with the list. Maybe in the budget, we should inquire why they are so incapable. Imagine, there are cases pending and they cannot tell us. What kind of agency is that?

I think if we call them now. They are probably working because lawyers work hard, Mr. President, believe it or not. They work probably into the night. So if we call the office now, they will probably be able to give it to us. But the Cebu case should be of material concern because it was raised. When one offers the information, he cannot now refuse to yield the rest. I did not ask for it.

So, Mr. President, I will ask really for the information on the cases. The Cabinet, if we want, I will ask the Executive Secretary

but it is simpler since this is important, I guess, to the administration to just tell us the information.

Senator Osmeña III. Mr. President, the information is forthcoming. I just felt that it was not quite germane. Although if we are up against brilliant lawyers like the distinguished gentleman from Bicol, we will always find the way to explain that it is germane. In any case, the industry standards that have been referred to in the law are the Subic Bay Metropolitan Authority and the Clark Development Authority Ecozones.

In the period of amendments, Mr. President, I would be willing to consider an amendment that would specify that it should be at par with the salaries being paid in the Subic Bay Metropolitan Authority and the Clark Development Authority.

Senator Roco. Yes, we are happy about that information. So, we will still reserve just in terms of Subic, Mr. President, maybe, since the distinguished gentleman authored a resolution.

In analyzing this bill, I went to the Constitution and maybe, the people who are worried about this case should really think in terms of the prohibition—the two-month prohibition before presidential elections. Because the presidential election period commenced on February 10 and the appointment was February 9.

So, presidential election period does not refer to the day of the casting of the ballot. In fact, I think under the Election Code, it probably commenced February 10. So maybe, it is covered by the two-month prohibition. That is just an additional information why Subic may not be a good model for standards of the industry, because in Subic, Mr. President, we can even have an airplane getting there, landing there, given so many exemptions. This is tax exempt. We can bring in cars.

If that is the standard, we must stop giving all these pocket kingdoms to people. Because some of them even get to believe that they own it. That is why, if that is the standard alluded to here, then I suggest that the distinguished sponsor examine very carefully those standards because those two are not the best examples of regulated or rule-bound domains.

So may I just reserve, Mr. President, and seek the indulgence of the gentleman to just continue very briefly next time.

Thank you, Mr. President.

The President. Thank you, Senator Roco.

Senator Osmeña III. Yes. Mr. President, before we adjourn, may I just react to the parting comments of the gentleman from Bicol. I would rather leave it up to the Secretary of Trade and Industry to determine the standard; otherwise in examining every ifs, buts, whys and wherefores of a bill, we could go on for 10 years to perfect the bill.

The industry standard, we could compare it with the Department of Trade and Industry, we could compare it with the salaries being paid in Thailand Export Processing Zones, Malaysia Export Processing Zones, et cetera, because we are in direct competition with those countries in attracting locators to our country. They could also decide to go a little bit less and compare it with the salaries that the chairman of the SBMA is getting. After all, the director general of the PEZA has a wider scope and responsibility in administering and regulating 101 ecozones all over the country and the Subic Bay administrator only has one. Maybe he deserves a higher salary. Anyway, I will leave that up to the DTI secretary. That is my trend of thought.

Thank you, Mr. President.

The President. Thank you, Senator Osmeña III.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1136

Senator Drilon. Mr. President, I move to suspend consideration of Senate Bill No. 1136 under Committee Report No. 2.

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

MOTION OF SENATOR DRILON
(Reopening of the Period of Interpellations
on S. No. 763)

Senator Drilon. Mr. President, earlier, the Chamber approved the termination of the period of interpellations on Senate Bill No. 763 under Committee Report No. 1. There is a request here by our colleague, Senator Santiago, that the period of interpellations be reopened as she has some questions to the sponsor.

May we, therefore, move that we reconsider our earlier decision terminating the period of interpellations on Senate Bill No. 763.

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