

DELIBERATION OF R.A. NO. 7716/ S. B. NO. 1630
RESTRUCTURING THE VALUE ADDED TAX
SYSTEM (VAT Refinements)

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note and it reads: "If possible, could we continue tomorrow? Thanks." What is it between friends? [Laughter]

Therefore, Mr. President, I have really no objection if we can continue this tomorrow.

Senator Roco: It will be my pleasure in any event, Mr. President, for another day. Tomorrow is as good to me as today.

Senator Gonzales: Thank you, and I hope that we can continue this dialogue between us, Mr. President.

Senator Roco: It is my pleasure, Mr. President.

The President: The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1606

Senator Romulo: Mr. President, I move that, in the meantime, we suspend consideration of Senate Bill No. 1606.

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

BILL ON SECOND READING
Senate Bill No. 1630 - VAT Refinements

Senator Romulo: Mr. President, I move that we consider Senate Bill No. 1630 as reported out under Committee Report No. 349.

The President: Consideration of Senate Bill No. 1630 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. 1630, entitled

AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM TO WIDEN ITS TAX BASE AND ENHANCE ITS ADMINISTRATION, AMENDING FOR THESE PURPOSES SECTIONS 99, 100, 102, 103, 104, 105, 107, 108, AND 110 OF TITLE IV, 112 OF TITLE V, AND 236, 237 AND 238 OF TITLE IX, AND REPEALING SECTIONS 113, 114 AND 116 OF TITLE V, ALL OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES.

The following is the full text of Senate Bill No. 1630:

SENATE BILL NO. 1630

AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM, WIDENING ITS TAX BASE AND ENHANCING ITS ADMINISTRATION, AND FOR THESE PURPOSES AMENDING AND REPEALING THE RELEVANT PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES

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

SEC. 1. Section 99 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 99 *Persons Liable*. - Any person who, in the course of trade or business, sells, barter, exchanges, leases goods or properties, renders services, and any person who import goods shall be liable to the value-added tax (VAT) imposed in Sections 100 to 102 of this Code.

"The value-added tax is an indirect tax and the amount of tax may be shifted or passed on to the buyer, transferee or lessee of the goods, properties or services. This rule shall likewise apply to existing contracts of sale or lease of goods, properties or services at the time of the effectivity of this Act.

"The phrase 'in the course of trade or business' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged therein is a non-stock, non-profit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests) or government entity.

"The rule of regularity, to the contrary, notwithstanding, services as defined in this Code rendered in the Philippines by nonresident foreign persons shall be considered as being rendered in the course of trade or business."

SEC. 2. Section 100 of the National Internal Revenue Code, as amended, is hereby further amended

to read as follows:

"SEC. 100. *Value-added tax on sale of goods or properties.* - (a) *Rate and base of tax.* - There shall be levied, assessed and collected on every sale, barter or exchange of goods or properties, a value-added tax equivalent to 10% of the gross selling price or gross value in money of the goods or properties sold, bartered or exchanged, such tax to be paid by the seller or transferrer.

"(1) The term 'goods or properties' shall mean all tangible and intangible objects which are capable of pecuniary estimation and shall include:

"(A) Real properties held primarily for sale to customers or held for lease in the ordinary course of trade business;

"(B) The right or the privilege to use patent, copyright, design or model, plan, secret formula or process, goodwill, trademark, trade brand or other like property or right;

"(C) The right or the privilege to use in the Philippines of any industrial, commercial or scientific equipment;

"(D) The right or the privilege to use motion picture films, films, tapes and disc; and

"(E) Radio, television, satellite transmission and cable television time.

"The term 'gross selling price' means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods or properties, excluding the value-added tax. The excise tax, if any, on such goods or properties shall form part of the gross selling price.

"(2) The following sales by VAT-registered persons shall be subject to 0%:

(A) Export sales. - The term 'export sales' means:

"(i) The sale and actual shipment of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported and paid for in acceptable

foreign currency or its equivalent in goods or services, and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);

"(ii) Sale of raw materials or packaging materials to a nonresident buyer for delivery to a resident local export-oriented enterprise to be used in manufacturing, processing, packing or repacking in the Philippines of the said buyer's goods and paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP);

"(iii) Sale of raw materials or packaging materials to export-oriented enterprise whose export sales exceed seventy percent (70%) of total annual production;

"(iv) Sale of gold to the *Bangko Sentral ng Pilipinas* (BSP); and

"(v) Those considered export sales under Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, and other special laws.

"(B) Foreign currency denominated sale. - The phrase 'foreign currency denominated sale' means sale to a nonresident of goods, except those mentioned in Sections 149 and 150, assembled or manufactured in the Philippines for delivery to a resident in the Philippines, paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP).

"(C) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subject such sales to zero-rate.

"(b) *Transactions deemed sale.* - The following transactions shall be deemed sale:

"(1) Transfer, use, or consumption not in the course of business of goods or properties originally intended for sale or for use in the course of business.

"(2) Distribution or transfer to:

"(A) Shareholders or investors as share in the profits of the VAT-registered persons; or

"(B) Creditors in payment of debt.

"(3) Consignment of goods if actual sale is not made within 60 days following the date such goods were consigned.

"(4) Retirement from or cessation of business, with respect to inventories of taxable goods existing as of such retirement or cessation.

"(c) *Changes in cessation of status of a VAT-registered person.* - The tax imposed in paragraph (a) of this section shall also apply to goods disposed of or existing as of a certain date if under circumstances to be prescribed in regulations to be promulgated by the Secretary of Finance, the status of a person as a VAT-registered person changes or is terminated.

"(d) *Determination of the tax.* - (1) The tax shall be computed by multiplying the total amount indicated in the invoice by 1/11.

"(2) Sales returns, allowances and sales discounts. - The value of goods or properties sold and subsequently returned or for which allowances were granted by a VAT-registered person may be deducted from the gross sales or receipts for the quarter in which a refund is made or a credit memorandum or refund is issued. Sales discount granted and indicated in the invoice at the time of sale and the grant of which does not depend upon the happening of a future event may be excluded from the gross sales within the same quarter it was given.

"(3) Authority of the Commissioner to determine the appropriate tax base. - The Commissioner shall, by regulations, determine the appropriate tax base in cases where a transaction is deemed a sale, barter or exchange of goods or properties under paragraph (b) hereof, or where the gross selling price is unreasonably lower than the actual market value."

SEC. 3. Section 102 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 102 *Value-added tax on sale of services and use or lease of properties.* - (a) *Rate and base of tax.* - There shall be levied, assessed and collected, a value-added tax equivalent to 10% of gross receipts derived from the sale or exchange of services, including the use or lease of properties.

"The phrase 'sale or exchange of services' means

the performance of all kinds of services in the Philippines for others for a fee, remuneration or consideration, including those performed or rendered by construction and service constructors; stock, real estate, commercial, customs and immigration brokers; lessors of property, whether personal or real; warehousing services; lessors or distributors of cinematographic films; persons engaged in milling, processing, manufacturing or repacking for goods for others; proprietors, operators or keepers of hotels, motels, resthouses, pension houses, inns, resorts; proprietors or operators of restaurants, refreshment parlors, cafes and other eating places, including clubs and caterers; dealers in securities; lending investors; operators of taxicabs; utility cars for rent or hire driven by the lessees (rent-a-car companies), tourist buses; and other common carriers by land, air, and sea relative to their transport of goods or cargoes; services of franchise grantees of telephone and telegraph, radio and television broadcasting and all other franchise grantees except those under Section 117 of this Code; services of banks, non-bank financial intermediaries and finance companies; and non-life insurance companies (except their crop insurances) including surety, fidelity, indemnity and bonding companies; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties. The phrase 'sale or exchange of services' shall likewise include:

"(1) The lease or the use of or the right or privilege to use any copyright, patent, design or model, plan, secret formula or process, goodwill, trademark, trade brand or other like property or right;

"(2) The lease or the use of, or the right to use of any industrial, commercial or scientific equipment;

"(3) The supply of scientific, technical, industrial or commercial knowledge or information;

"(4) The supply of any assistance that is ancillary and subsidiary to and is furnished as a means of enabling the application or enjoyed of any such property, or right as is mentioned in subparagraph (2) or any such knowledge or information as is mentioned in subparagraph (3); or

"(5) The supply of services by a nonresident person or his employee in connection with the use of property or rights belonging to, or the installation or operation of any brand, machinery, or other apparatus purchased from such nonresident persons;

“(6) The supply of technical advice, assistance or services rendered in connection with technical management or administration of any scientific, industrial or commercial undertaking, venture, project or scheme;

“(7) The lease of motion picture films, films, tapes and discs; and

“(8) The lease or the use of or the right to use radio, television, satellite transmission and cable television time.

“Lease of properties shall be subject to the tax herein imposed irrespective of the place where the contract of lease or licensing agreement was executed if the property is leased or used in the Philippines.

“The term ‘gross receipts’ means the total amount of money or its equivalent representing the contract price, compensation, service fee, rental or royalty, including the amount charged for materials supplied with the services and deposits and advanced payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax.

“(b) *Transactions subject to zero-rate.* - The following services performed in the Philippines by VAT-registered persons shall be subject to 0%:

“(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP).

“(2) Services other than those mentioned in the preceding sub-paragraph, the consideration for which is paid for in acceptable foreign currency and accounted for in accordance with the rules and regulations of the *Bangko Sentral ng Pilipinas* (BSP).

“(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero rate.

“(4) Services rendered to vessels engaged exclusively in international shipping; and

“(5) Services performed by subcontractors and/or contractors in processing, converting, or manufacturing goods for an enterprise whose export sales exceed seventy percent (70%) of total annual production.

“(c) *Determination of the tax.* - The tax shall be computed by multiplying the total amount indicated in the official receipt by 1/11.”

SEC. 4. Section 103 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 103. *Exempt transactions.* - The following shall be exempt from the value-added tax:

“(a) Sale of nonfood agricultural products; marine and forest products in their original state by the primary producer or the owner of the land where the same are produced;

“(b) Sale of cotton and cotton seeds in their original state; and copra;

“(c) Sale or importation of agricultural and marine food products in their original state, except importation of meat, livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefore.

“Products classified under this paragraph and paragraph (a) shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, smoking or stripping. Polished and/or husked rice, corn grits, locally produced raw cane sugar and ordinary salt shall be considered in their original state;

“(d) Sale or importation of fertilizers; seeds, seedlings and fingerlings; fish, prawn, livestock and poultry feeds, including ingredients, whether locally produced or imported, used in the manufacture of finished feeds (except specially feeds for race horses, fighting cocks, aquarium fish, zoo animals and other animals generally considered as pets);

“(e) Sale or importation of petroleum products (except lubricating oil, processed gas, grease, wax, and petrolatum) subject to excise tax imposed under Title VI;

"(f) Sale or importation of raw materials to be used by the buyer or importer himself in the manufacture of petroleum products subject to excise tax, except lubricating oil, processed gas, grease, wax, and petrolatum;

"(g) Importation of passenger and/or cargo vessel of more than five thousand tons, whether coastwise or ocean-going, including engine and spare parts of said vessel to be used by the importer himself as operator thereof;

"(h) Importation of personal and household effects belonging to residents of the Philippines returning from abroad and non-resident citizens coming to resettle in the Philippines: *Provided*, That such goods are exempt from the customs duties under the Tariff and Customs Code of the Philippines;

"(i) Importation of professional instruments and implements, wearing apparel, domestic animals, and personal household effects (except any vehicle, vessel, aircraft, machinery, other goods for use in the manufacture and merchandise of any kind in commercial quantity) belonging to persons coming to settle in the Philippines, for their own use and not for sale, barter or exchange, accompanying such persons, or arriving within ninety (90) days before or after their arrival, upon the production of evidence satisfactory to the Commissioner of Internal Revenue, that such persons are actually coming to settle in the Philippines and that the change of residence is bona fide;

"(j) Services subject to percentage tax under Title V;

"(k) Services by agricultural contract growers and milling for others of palay into rice, corn into grits and sugar cane into raw sugar;

"(l) Medical, dental, hospital and veterinary services except those rendered by professionals;

"(m) Educational services rendered by private educational institutions, duly accredited by the Department of Education, Culture and Sports, and those rendered by government educational institutions;

"(n) Sale by the artist himself of his works of art, literary works, musical compositions and similar creations, or his services performed for the production of such works;

"(o) Services rendered by individuals pursuant to an employer-employee relationship;

"(p) Services rendered by regional or area headquarters established in the Philippines by multinational corporations which act supervisory, communications and coordinating centers for their affiliates, subsidiaries or branches in the Asia-Pacific Region and do not earn or derive income from the Philippines;

"(q) Transactions which are exempt under special laws, except those granted under Presidential Decree Nos. 66,529,972,1491 and 1590, and non-electric cooperatives under Republic Act No. 6938, or international agreements to which the Philippines is a signatory;

"(r) Export sales by persons who are not VAT-registered;

"(s) Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business or real property utilized for low-cost and socialized housing as defined by Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992, and other related laws;

"(t) Sale or lease of goods or properties or the performance of services other than the transactions mentioned in the preceding paragraphs, the gross annual sales and/or receipts do not exceed the amount prescribed in regulations to be promulgated by the President upon the recommendation by the Secretary of Finance which shall not be less than Four hundred eighty thousand pesos (P480,000.00) or more than Seven hundred twenty thousand pesos (P720,000.00) subject to tax under Section 112 of this Code.

"The foregoing exemptions to the contrary notwithstanding, any person whose sale of goods or properties or services which are otherwise not subject to VAT, but who issues a VAT invoice or receipt therefore shall, in addition to his liability to other applicable percentage tax, if any, be liable to the tax imposed in Section 100 or 102 without the benefit of input tax credit, and such tax shall not also be recognized as input tax credit to the purchaser under Section 104, all of this Code."

SEC. 5. Section 104 of the National Internal

Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 104. *Tax Credits.* - (a) *Creditable input tax.* - Any input tax evidenced by a VAT invoice or official receipt issued in accordance with Section 108 hereof on the following transactions shall be creditable against the output tax:

"(1) Purchase or importation of goods;

"(A) For sale; or

"(B) For conversion into or intended to form part of a finished product for sale including packaging materials; or

"(C) For use as supplies in the course of business; or

"(D) For use as materials supplied in the sale of service; or

"(E) For use in trade or business for which deduction for depreciation or amortization is allowed under this Code, except automobiles, aircraft and yachts.

"(2) Purchase of services on which a value-added tax has been actually paid.

"The input tax on domestic purchase of goods or properties shall be creditable;

"(AA) To the purchaser upon consummation of sale and on importation of goods or properties;

"(BB) To the importer upon payment of the value-added tax prior to the release of the goods from the custody of the Bureau of Customs.

"However, in the case of purchase of services, lease or use of properties the input tax shall be creditable to the purchaser, lessee or licensee upon payment of the compensation, rental, royalty or fee.

"A VAT-registered person who is engaged in transactions not subject to the value-added tax shall be allowed input tax credit as follows:

"(A) Total input tax which can be directly attributed to transactions subject to value-added tax; and

"(B) A ratable portion of any input tax which cannot be directly attributed to either activity.

"The term 'input tax' means the value-added tax due from or paid by a VAT-registered person in the course of his trade or business on importation of goods or local purchase of goods or services, including lease or use of property, from VAT-registered person. It shall also include the transitional input tax determined in accordance with section 105 of this Code.

"The term 'output tax' means the value-added tax due on the sale or lease of taxable goods or properties or services by any person registered or required to register under Section 107 of this Code.

"(b) *Excess output or input tax.* - If at the end of any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over to the succeeding quarters. Any input tax attributable to the purchase of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 106.

"(c) *Determination of creditable input tax.* - The sum of the excess input tax carried over from the preceding month or quarter and the input tax creditable to a VAT-registered person during the taxable month or quarters shall be reduced by the amount of claim for refund or tax credit for value-added tax and other adjustments, such as purchase returns or allowances and input tax attributable to exempt sale.

"The claim for tax credit referred to in the foregoing paragraph shall include not only those filed with the Bureau of Internal Revenue (BIR) but also those filed with the other government agencies, such as the Board of Investments (BOI) and the Bureau of Customs (BOC)."

SEC. 6. Section 106 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 106. *Refunds or tax credits of creditable input tax.* - (a) Any VAT-registered person, whose sales are zero-rated or effectively zero-rated, may within two (2) years after the close of the taxable quarter when

the sales were made, apply for the issuance of a tax credit certificate or refund of creditable input tax due or paid attributable to such sales, except transitional input tax, to the extent that such input tax has not been applied against output tax: *Provided, however,* That in the case of zero-rated sales under Section 100(a)(2)(A)(i), (ii) and (b) and Section 102(b)(1) and (2) the acceptable foreign currency exchange proceeds thereof had been duly accounted for in accordance with the regulations of the *Bangko Sentral ng Pilipinas* (BSP): *Provided, further,* That where the taxpayer is engaged in zero-rated or effectively zero-rated sale and also in taxable or exempt sale of goods or properties or services, and the amount of creditable input tax due or paid cannot be directly and entirely attributed to any one of the transactions, it shall be allocated proportionately on the basis of the volume of sales.

“(b) *Capital goods.* - A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application may be made only within two (2) years after the close of the taxable quarter when the importation or purchase was made.

“(c) *Cancellation of VAT-registration.* - A person whose registration has been canceled due to retirement from the cessation of business, or due to changes in or cessation of status under Section 100(c) of this Code may, within two (2) years from the date of cancellation, apply for the issuance of a tax credit for any unused input tax which may be used in payment of his other internal revenue taxes.

“(d) *Period within which refund or tax credit of input taxes shall be made.* - In proper cases, the Commissioner shall grant a refund or issue the tax credit for creditable input taxes within sixty (60) days from the date of submission of complete documents in support of the application filed in accordance with subparagraphs (a) and (b) hereof. In case of full or partial denial of the claim for tax refund or tax credit, or the failure on the part of the Commissioner to act on the application within the period prescribed above, the taxpayer affected may, within thirty (30) days from the receipt of the decision denying the claim or after the expiration of the sixty-day period, appeal the decision or the unacted claim with the Court of Tax Appeals.

“(e) *Manner of giving refund.* - Refund shall be

made upon warrants drawn by the Commissioner or by his duly authorized representative without the necessity of being countersigned by the Chairman, Commission on Audit, the provisions of the Revised Administrative Code to the contrary notwithstanding: *Provided,* That refunds under this paragraph shall be subject to post audit by the Commission on Audit.”

SEC. 7. Section 107 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 107. *Registration of value-added taxpayers.*
- (a) *In General.* - Any person subject to a value-added tax under Sections 100 and 102 of this Code shall register with the appropriate Revenue District Officer and pay an annual registration fee in the amount of One thousand pesos (P1,000.00) for every separate or distinct establishment or place of business and every year thereafter on or before the last day of January. Any person just commencing a business subject to the value-added tax must pay the fee before engaging therein.

“A person who maintains a head or main office and branches in different places shall register with the Revenue District Office which has jurisdiction over the place wherein the main or head office is located. However, the fee shall be paid to the Revenue District Officer, collection agent, authorized treasurer of the municipality where each place of business or branch is situated.

“(b) *Persons commencing business.* - Any person who expects to realize gross sales or receipts subject to value-added tax in excess of the amount prescribed under Section 103(t) of this Code for the next 12-month period from the commencement of the business shall, within thirty (30) days before the start of the said business, register with the Revenue District Officer who has jurisdiction over his principal place of business and shall pay the annual registration fee prescribed in the preceding paragraph.

“(c) *Persons becoming liable to the value-added tax.* - Any person whose gross sales or receipts in any 12-month period exceeds the amount prescribed under Section 103(t) of this Code for exemption from the value-added tax shall register and pay the annual registration fee prescribed in paragraph (a) of this section within thirty (30) days after the end of the last month of that period, and shall be liable to the value-

added tax commencing from the first day of the month following his registration.

“(d) *Optional registration of exempt person.* - Any person whose transactions are exempt from the value-added tax under Section 103(t) of this Code, or any person whose transactions are exempt from value-added tax under Section 103(a), (b), (c), and (d) of this Code with respect to hid export sales only, may apply for registration as a VAT-registered person not later than ten (10) days before the beginning of the taxable quarter and shall pay the annual registration fee prescribed in sub-paragraph (a) of this section.

“In any case, the Commissioner may, for administrative reason, deny any application for registration.

“For purposes of this Title, any person registered in accordance with the provisions of this section shall be referred to as ‘VAT-registered person.’ Each VAT-registered person shall be canceled by the Commissioner upon filing of an application for cancellation of registration. Any person who opted to be registered under paragraph (d) of this section may, under regulation of the Secretary of Finance, apply for cancellation of such registration.”

SEC. 8. Section 108 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 108. *Invoicing and accounting requirements for VAT-registered persons.* - (a) *Invoicing requirements.* - A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 238, the following information shall be indicated in the invoice or receipt:

“(1) A statement that the seller is a VAT-registered person, followed by his taxpayer’s identification number (TIN); and

“(2) The total amount which the purchaser pays or is obligated to pay to the seller with the indication that such amount includes the value-added tax.

“(b) *Accounting requirements.* - Notwithstanding the provision of Section 223, all persons subject to the value-added tax under Sections 100 and 102 shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary

purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as may be required by the Secretary of Finance.”

SEC. 9. Section 110(c) of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“(c) *Withholding of Creditable Value-Added Tax.* - The government or any of its political subdivisions, instrumentalities or agencies, including government-owned or controlled corporations (GOCCs) shall, before making payment on account of its purchase of goods from sellers and services rendered by contractors which are subject to the value-added tax imposed in Sections 100 and 102 of this Code, deduct and withhold the value-added tax due at the rate of three percent (3%) of the gross payment for the purchase of goods and six percent (6%) on gross receipts for services rendered by contractors on every sale or installment payment which shall be creditable against the value-added tax liability of the seller or contractor: *Provided, however,* That the payment for lease or use of properties or property rights to nonresident owners shall be subject to ten percent (10%) withholding tax at the time of payment. For this purpose, the payor or person in control of the payment shall be considered as the withholding agent.”

SEC. 10. Section 112 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 112. *Tax on persons exempt from value-added tax (VAT).* - Any person whose sales or receipts are exempt under Section 103(t) of this Code from the payment of value-added tax who is not a VAT-registered person shall pay a tax equivalent to three percent (3%) upon the effectivity of this Act and four percent (4%) two (2) years thereafter, of his gross quarterly sales or receipts.”

SEC. 11. Section 115 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 115. *Percentage tax on carriers and keepers of garages.* - Keepers of garage, and common carriers by land, air or water for the transport of passengers, except owners of bancas, and owners of animal-drawn two-wheeled vehicles, shall pay a tax equivalent to three *per centum* (3%) of their quarterly gross receipts.

"The gross receipts of common carriers derived from their incoming and outgoing freight shall not be subjected to the local taxes imposed under Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

In computing the percentage tax provided in this section, the following shall be considered the minimum quarterly gross receipts in each particular case:

"Jeepney for hire"

- 1. Manila and other cities P2,400.00
- 2. Provincial 1,200.00

"Public utility bus"

- Not exceeding 30 passengers P3,600.00
- Exceeding 30 but not exceeding 50 passengers 6,000.00
- Exceeding 50 passengers 7,200.00

"Taxis"

- 1. Manila and other cities P3,600.00
- 2. Provincial 2,400.00
- Car for hire (w/chauffeur) 3,000.00
- Car for hire (w/out chauffeur) 1,800.00

SEC. 12 Section 117 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 117. *Tax on franchises.* - Any provision of general or special law to the contrary notwithstanding, there shall be levied, assessed and collected in respect to all franchises on electric, gas and water utilities a tax of two percent (2%) on the gross receipts derived from the business covered by the law granting the franchise.

"The grantee shall file the return with, and pay the tax due thereon to, the Commissioner of Internal Revenue or his duly authorized representative in accordance with the provisions of Section 125 of this Code and the return shall be subject to audit by the Bureau of Internal Revenue, any provision of any existing law to the contrary notwithstanding."

SEC. 13. The first paragraph of Section 121 of this code is hereby further amended to read as follows:

"SEC. 121. *Tax on Life Insurance Premium.* -

There shall be collected from every person, company, or corporation (except purely cooperative companies or associations) doing life insurance business of any sort in the Philippines a tax of five *per centum* (5%) of the total premium collected, whether such premium are paid in money, notes, credits or any substitute for money; but premiums refunded within six months after payment on account of rejection of risk or returned for other reason to a person insured shall not be included in the taxable receipts; nor shall any tax be paid upon reinsurance by a company that has already paid the tax; nor upon premiums collected or received by any branch of a domestic corporation, firm or association doing business outside the Philippines on account of any life insurance of the insured who is a nonresident, if any tax on such premium is imposed by the foreign country where the branch is established nor upon premiums collected or received on account of any reinsurance, if the insured of personal insurance resides outside the Philippines, if any tax on such premiums is imposed by the foreign country where the original insurance has been issued or perfected; nor upon that portion of the premiums collected or received by the insurance companies on variable contracts (as defined in Sec. 232(2) of Presidential Decree No. 612), in excess of the amounts necessary to insure the lives of the variable contract workers."

SEC. 14. Section 236 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 236. *Indication of taxpayer identification number (TIN).* - For tax identification purposes, any person required under the authority of this Code, to make, render, or file, a return, statement, or a document, shall be supplied with or assigned a taxpayer identification-number (TIN) which shall be indicated on such return, statement or document.

"Any person who shall secure more than one TIN or who fails to indicate his correct TIN as required in the foregoing paragraph, shall be criminally liable under the provisions of Section 274 of this Code."

SEC. 15. Section 237 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 237. *Registration of name or style with the revenue district officer or collection agent.* - Every person, other than persons required to be registered

under the provisions of Section 107 engaged in any business shall, on or before the commencement of his business, or whenever he transfers to another revenue district, register with the Revenue District Officer concerned within 10 days from the commencement of business or transfer and shall pay the annual registration fee in the amount of One thousand pesos (P1,000.00) for every separate or distinct establishment or place of business and every year thereafter on or before the last day of January. The fee shall be paid to the Revenue District Officer, collection agent, authorized treasurer of the municipality where each place of business or branch is situated. In cities or municipalities where no revenue district officer is stationed, such person shall register and pay the fee prescribed herein with the collection agent. The registration shall contain his name or style, place of residence, business, the place where such business is carried on, and such other information as may be required by the Commissioner in the form prescribed therefor. In the case of a firm, the names and residences of the various persons constituting the same shall also be registered. The Commissioner, after taking into consideration the volumes of sales, financial condition and other relevant factors, may require the registrant to guarantee the payment of his taxes by way of advance payment, or the posting or filing of a security, guarantee or collateral acceptable to the Commissioner."

SEC. 16. Section 238 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 238. *Issuance of receipts or sales or commercial invoices.* - All persons subject to an internal revenue tax shall, for each sale or transfer of merchandise or for services rendered valued at P25.00 or more, issue duly registered receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: *Provided, however,* That in the case of sales, receipts or transfers in the amount of P100.00 or more, or, regardless of amount, where the sale or transfer is made by a person liable to value-added tax to another person also liable to value-added tax; or, where the receipt is issued to cover payment made as rentals, commissions, compensations or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer, or client: *Provided, further,* That where the purchaser is a VAT-registered person, in addition to the information herein required, the invoice

or receipt shall further show the taxpayer's identification number of the purchaser.

"The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of 3 years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place of business, for a like period.

"The Commissioner may, in meritorious cases, exempt any person subject to an internal revenue tax from compliance with the provisions of this section."

SEC. 17. *Effectivity of the Imposition of VAT on Certain Goods, Properties and Services.* - The value-added tax shall be levied, assessed and collected on the following, two (2) years after the effectivity of this Act:

(a) Services performed in the exercise of profession or calling subject to the professional tax under the Local Government Code or Republic Act No. 7160, and professional services performed by registered general professional partnerships; actors, actresses, talents singers and emcees; radio and television broadcasters, choreographers; musical, radio, movie, television and stage directors; and professional athletes;

(b) Services rendered by banks, non-bank financial intermediaries, finance companies and other financial intermediaries not performing quasi-banking functions;

(c) Freight services rendered by international cargo vessels; and

(d) The lease or use of sports facilities and equipment by amateur players, as provided under Republic Act No. 6847, except sports facilities and equipment which are exclusively or mainly for the private use of shareholders or members of the club or organizations which owns or operates such sports facilities and equipment.

Prior to their inclusion in the coverage of the value-added tax the above services shall continue to pay the applicable tax prescribed under the present provisions of the National Internal Revenue Code, as amended.

However, when public interest to requires, the

President taking into account the impact on the prices of goods and services, may, upon the recommendation of the Secretary of Finance, exclude any of the above services from the coverage of the value-added tax: *Provided, however,* That in the event of the exclusion of any of the above services the existing applicable tax under the provisions of the National Internal Revenue Code, as amended, shall continue to be paid on the service so excluded.

SEC. 18. Tax Administration Development Fund. - For the effective implementation of this Act, there is hereby created a Tax Administration Development Fund to be sourced from five percent (5%) of the increase in value-added tax collections for 1995 over that of the immediately preceding year and annually thereafter for a period of four (4) years five percent (5%) of the increase over the collections of the preceding year. Such amount which shall be retained by the Bureau of Internal Revenue shall be considered receipts automatically appropriated for the first year. Disbursements from this fund shall be subject to such rules and guidelines as may be promulgated by the Department of Finance upon recommendation of the Commissioner of Internal Revenue. These funds shall not be used for the purchase of vehicles, the payment of salaries and incentives, creation of regular positions, and construction of buildings and offices.

SEC. 19. Rules and Regulations. - For the effective implementation of this Act, the Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations within ninety (90) days from effectivity hereof.

SEC. 20. Repealing Clauses. - The provisions of any special law relative to the rate of franchise taxes are hereby expressly repealed. Sections 113, 114, and 116 of the National Internal Revenue Code are hereby repealed.

Paragraphs (c), (d), and (e) of Article 39 of Executive Order No. 226, otherwise known as the Omnibus Investment Code of 1987, are hereby repealed: *Provided, however,* That the benefits and incentives under said paragraphs shall continue to be enjoyed by enterprises registered with the Board of Investments before the effectivity of this Act.

Unless otherwise excluded by the President pursuant to Section 17 hereof, Sections 119 and 120 of

the National Internal Revenue Code shall be repealed upon the expiration of two (2) years from the effectivity of this Act. During the period that the freight services rendered by international cargo vessels are not covered by the value-added tax imposed under this Act, said services shall pay a tax at a rate of three *per centum* (3%) of their quarterly gross receipts derived from outgoing cargoes.

All other laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 21. This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation whichever comes earlier.

Approved,

(Sgd.) EDGARDO J. ANGARA
President of the Senate

(Sgd.) JOSE DE VENECIA, JR.
*Speaker of the House
of Representative*

This Act which is a consolidation of House Bill No. 11197 and Senate Bill No. 1630 was finally passed by the House of Representative and the Senate on April 27, 1994 and May 2, 1994, respectively.

(Sgd.) EDGARDO E. TUMANGAN
Secretary of the Senate

(Sgd.) ROBERTO P. NAZARENO
*Acting Secretary General
House of Representatives*

Approved: 5 May 1994

(Sgd.) FIDEL V. RAMOS
President of the Philippines

Senator Maceda: Mr. President, question of privilege.

The President: Senator Maceda is recognized.

**QUESTION OF PRIVILEGE OF SENATOR MACEDA
(On Whether Senate Bill No. 1630 is Priority Bill)**

Senator Maceda: Mr. President, may I know from the

Majority Leader whether this bill is being given priority because it was the subject of a compromise in yesterday's meeting between the *Kilusang Rollback* and the President and his Cabinet in Malacañang.

Senator Romulo: Mr. President, as far as I know, when we started the session on January 24, we had agreed in our caucus that this is one of the bills that should be taken up as soon as the Committee Report was filed and submitted.

And so, we are acting in accordance with our own Calendar, as determined in the several caucuses that we have had.

Senator Maceda: Thank you, Mr. President.

Senator Romulo: Mr. President, may I ask that the distinguished Chairman of the Committee on Ways and Means, the Gentleman from Cebu and Bohol, Senator Ernesto Herrera, be recognized.

The President: Senator Herrera is recognized.

**MANIFESTATION OF SENATOR HERRERA
(Senators Angara, Romulo, Ople, and Shahani as
Coauthors of Senate Bill No. 1630)**

Senator Herrera: Thank you, Mr. President. Before I deliver my Sponsorship Speech, may I just manifest that Senators Angara, Romulo, Ople, and Shahani are coauthors of this bill.

The President: It is so noted.

SPONSORSHIP SPEECH OF SENATOR HERRERA

Senator Herrera: Mr. President, in keeping with our common desire to introduce structural changes in our tax system, the Committee on Ways and Means sponsors this morning vital amendments to the provisions of the value-added taxation in the National Internal Revenue Code. It is a demonstration of the leadership and commitment of the Senate to develop laws which will eliminate opportunities for abuse and will promote equity in the tax system. By our sponsorship, we reaffirm that the Senate always rises to the challenge of financing the development requirements of the country through the enactment of measures which are both efficient and equitable.

The value-added tax or VAT is regarded as an unparalleled tax phenomenon worldwide. Proving to be a buoyant revenue source capable of raising substantial revenues to as high as 11.31 percent of GDP as in the case of France, the VAT has become an integral part of tax systems of about 60 developed and

developing countries. Its high revenue potential has helped governments to lower income tax rates and, at the same time, finance development and welfare. It has also allowed governments to control budget deficits.

Not only is the VAT known to be revenue productive, it also has other features which could significantly improve our indirect tax system. Being a neutral tax, the VAT does not influence decisions on factor or product choice; thus, it promotes efficiency in resource allocation. This is in contrast to a regime of sales tax rates which are differentiated and varied and which penalizes or favors sectors, depending on the vagaries of public administration.

The VAT also prevents cumulative taxation as goods move through successive stages of production and distribution. Through a tax credit mechanism, the VAT paid on inputs to production are not built into prices.

The zero-rating proviso of VAT is an incentive to exports. Aside from being subjected to a zero rate, exporters can claim a refund of the VAT which have been paid on their inputs. This lowers their production costs and increases their competitiveness.

The self-policing aspect of the VAT can be a potent tool to improve tax administration. Traders have to issue invoices to claim tax credits and refunds, thus establishing an audit trail, not only for the VAT, but for other taxes, such as the income tax.

More importantly, the VAT simplifies taxation because it has become a surrogate for a host of other percentage taxes that often clutter a country's tax system. Evasion and corruption roost in a complicated tax system.

When the value-added tax was introduced in the Philippines in 1988 via Executive Order No. 273, it held a lot of promise for the Philippine tax system. The Philippine VAT was intended to be broad-based, covering the sale of all goods and services including importations. Exports would be zero-rated and only very few exemptions would be granted to promote certain policy objectives. A comprehensive VAT would have been the ideal structure.

Sadly, however, what eventually evolved was not what was envisioned. A number of activities, particularly in services, remained outside the VAT ambit. These include catering, restaurants, hotels, intangibles and amusement activities. There is also a wide array of exemptions from VAT including those which generate substantial income and value-added. To exclude services from its coverage is the surest way to make the VAT inelastic and inequitable. This is because services account for

44 percent of GNP and a significant fraction of the income of the affluent is spent on services. The failure to cover services prevents VAT revenues from growing with the GNP and frees the affluent from taxation.

These structural weaknesses have constrained the VAT from attaining its objectives. As a revenue-raiser, the VAT has been a low performer. A year after it was introduced, the VAT in 1988 failed to raise the P15.8 billion which used to be collected from the taxes it replaced. VAT collection for the said year only reached P13.07 billion or 2.12 percent of Gross Domestic Product. Although 1992 collections reached P32.24 billion, the VAT still falls short of its potential. Based on the estimate of the Department of Finance, the potential revenue from the VAT for 1992 is P63.78 billion or 8.9 percent of GDP. Thus, the actual VAT collection of P32.24 billion or 4.5 percent of GDP is merely 50 percent of its potential.

Of course, the Department of Finance, the Bureau of Customs, and the Bureau of Internal Revenue share a major part of the responsibility in developing a successful VAT system. There are major gaps in its implementation such as the lack of a comprehensive tax roll, inefficiencies in auditing, lack of sustained effort in enforcing the requirement to issue receipts, delays in the processing of tax credits and refunds, flip-flopping in the interpretation of law as highlighted by the controversial zero-rating of the sale of gold to the *Bangko Sentral*. These agencies have also to surmount chronic problems of graft and corruption. These problems cannot be solved, however, if we keep blaming one another and passing the buck, thus we propose Senate Bill No. 349.

Our proposed structural reforms of the VAT have the following features:

First, we broaden the value-added tax base through the inclusion of all tangible and intangible goods and services. The following activities are included for VAT coverage for simplification and efficiency: (a) dealers in securities; (b) proprietors, operators or keepers of hotels, motels, et cetera; and (c) proprietors or operators of restaurants and caterers.

Second, we withdraw the present exemption enjoyed by taxpayers with demonstrably greater ability to pay such as professionals, professional athletes, and lessors of real properties. Our commitment to our people to evolve a progressive system of taxation must be translated into action. We find no reason for collecting VAT from a retailer, dressmaker, manufacturer and exempting those with equal, if not greater, capability to pay.

Third, we would like to forestall incidence of inequity from

the proposal of the House to exempt copra, cotton, and molasses. We have no objection to exempting agricultural products such as copra, cotton, and sugar. But the exemption should be limited to the farmer. Traders in these commodities who generate income and value-added in the process should pay their proportionate share of the tax.

Fourth, we introduced provisions which will arrest the unwarranted erosion of the tax base through abuses in tax exemption privileges of unscrupulous entities.

Lastly, we rewrote the VAT bill into a more readable and simpler form so that appreciation and compliance by taxpayers will be enhanced. What good is a tax law if it is too complicated and difficult to comprehend?

It is estimated that the restructured VAT could generate at least P2 billion of incremental revenues. It can generate much more if efficiently implemented.

Our Committee, Mr. President, believes that the VAT should be made to work this time. The deficit has to be financed, public investments have to be sustained, and the tax system has to be strengthened to eliminate the need to impose emergency measures such as the oil levy. We owe our people better public services, stability in our revenue system and improved quality of life.

Thank you, Mr. President.

The President: The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1630

Senator Romulo: Mr. President, after consultation with the Sponsor, I move that we suspend the interpellations and suspend consideration of Senate Bill No. 1630 until tomorrow.

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

Senator Romulo: Mr. President, we have two speakers for the Privilege Hour — Senators Maceda and Lina. I ask that, first, the distinguished Gentleman from Manila, Ilocos Sur, and Laguna, Senator Maceda, be recognized.

Senator Tatad: Mr. President.

The President: Before Senator Maceda, Senator Tatad is recognized.

Mr. President, I will try to be a little bit malicious. This is a good cause for investigation because, if the Chamber of Mines tells this Representation that they paid P452 million, and the BIR tells the distinguished Gentleman that they collected P182 million, it seems that somebody has pocketed P370 million.

Senator Herrera: Is that on excise tax only, Mr. President?

Senator Maceda: Just excise tax. I will give the Gentleman a copy.

Senator Herrera: Certainly, there is a variance.

Senator Maceda: P270 million rather than P370 million is missing, Mr. President.

Thank you, Mr. President, and for the Gentleman's patience.

Senator Herrera: Thank you.

The President: The Majority Leader is recognized.

Senator Romulo: Mr. President, there are no more interpellations so I move that we close the period of interpellations.

The President: Is there any objection? [*Silence*] There being none, the period of interpellations is hereby closed.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a one-minute suspension of the session.

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

It was 10:49 p.m.

RESUMPTION OF THE SESSION

At 10:51 a.m., the session was resumed.

The President: The session is resumed.

The Majority Leader.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 10693

Senator Romulo: Mr. President, I move that we suspend consideration of Senate Bill No. 10693.

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

BILL ON SECOND READING
Senate Bill No. 1127 - Increasing the
Stocks Transactions Tax
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 1127 as reported out under Committee Report No. 383.

The President: Resumption of consideration of Senate Bill No. 1127 is now in order.

Senator Romulo: We are in the period of interpellations. I ask that we recognize the Chairman of the Committee on Ways and Means, Senator Herrera.

The President: Senator Herrera is recognized.

Senator Herrera: Mr. President, under the stocks transactions tax restructuring of the Senate version, we are proposing to increase from 1/4 of 1 percent to 1/2 of 1 percent. In the case of the IPOs, we are proposing to impose 2 percent as a final tax.

The House version is proposing for an increase of 1/4 of 1 percent to 1/2 of 1 percent. This is the only distinction between the House and the Senate versions.

Senator Romulo: Mr. President.

The President: The Majority Leader is recognized.

Senator Romulo: Mr. President, the Stocks Transactions Tax bill is clear enough and very lucid. So, I move that we close the period of interpellations.

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

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 11270

Senator Romulo: Mr. President, I move that we suspend consideration of Senate Bill No. 11270.

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

BILL ON SECOND READING
Senate Bill No. 1129 - VAT Refinements
(Continuation)

Senator Romulo: Mr. President, I move that we resume

consideration of Senate Bill No. 1129 as reported out under Committee Report No. 349.

The President: Resumption of consideration of Senate Bill No. 1129 is now in order.

Senator Romulo: We are in the period of interpellations, Mr. President. I ask that the distinguished Chairman of the Committee on Ways and Means, Senator Herrera, be recognized; and Senator Macapagal to interpellate.

The President: Senators Herrera and Macapagal are recognized.

Senator Macapagal: Mr. President, will the Gentleman from Cebu and Bohol yield for a few questions?

Senator Herrera: Willingly, to the very active Lady Senator from Central Luzon, who is the favorite Senator of the Boholanos, Mr. President.

Senator Macapagal: Thank you, Mr. President.

Mr. President, according to Section 103 of the present Value Added Tax Law, polished and/or husked rice, corn grits, and raw cane sugar shall be in their original state and therefore exempt from VAT. On the other hand, Section 100 provides that the basis of VAT is the gross selling price.

Mr. President, when sugar is refined and sold as refined sugar, what is the basis of VAT?

Senator Herrera: It should be the cost of the refined sugar, the gross selling price, Mr. President.

Senator Macapagal: Mr. President, if the gross selling price is the basis of VAT, then the exemption of raw sugar from VAT is negated, is it not?

Senator Herrera: Yes, Mr. President.

Senator Macapagal: In that case, Mr. President, is it not only the tolling fee which should actually be the value added to an exempt commodity such as raw cane sugar?

Senator Herrera: That should be, Mr. President.

Senator Macapagal: Therefore, if that should be, should the law not be clarified to provide that in the case of exempt items, the basis of VAT should be the tolling fee?

Senator Herrera: I think one of the standards that we also

have to consider here is that the farmers who fall under that level should be free from the coverage of VAT, Mr. President. But on the trading of refined sugar, that should be covered.

Senator Macapagal: All right, on the tolling fee and, perhaps, the trading. But it is very clear that the original objective and intent of the Value-Added Tax Law is to exempt the agricultural portion. Is it not, Mr. President?

Senator Herrera: Yes, Mr. President.

Senator Macapagal: So if the gross selling price is the basis, then that exemption is negated and therefore that should be corrected as soon as possible in any amendment to the law.

Senator Herrera: We will tackle that during the period of amendments, Mr. President.

Senator Macapagal: Thank you, Mr. President. If that will be tackled in the period of amendments, then I can terminate my interpellation right now, and we look forward to the proper manner of addressing the issue during the period of amendments.

Thank you, Mr. President.

Senator Herrera: Thank you, Mr. President. May we have a one-minute recess?

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a one-minute suspension of the session.

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

It was 10:57 a.m.

RESUMPTION OF THE SESSION

At 11:03 a.m., the session was resumed.

The President: The session is resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1129

Senator Romulo: Mr. President, I move that we suspend consideration of Senate Bill No. 1129.

The President: Is there any objection? [*Silence*] Hearing

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9. The liberalization of entry of foreign banks is ill-advised, unnecessary and against the national interest.

10. Senate Bill No. 1606 is unconstitutional; banking is a sensitive business that affects the national interest and should be reserved to Filipinos and corporations controlled by them, as the Constitution provides.

11. It is anti-Filipino, as it is discriminatory against Filipinos in their own country.

12. Mr. President, a less objectionable measure would be Senate Bill No. 1474, which was considered by the Committee on Banks, Financial Institutions and Currencies.

Senate Bill No. 1474 to which I refer, is authored by our distinguished Senate President, Senator Angara, with the distinguished Sponsor himself, Chairman of the Committee on Banks, Financial Institutions and Currencies, with the distinguished Gentleman from Bulacan, Chairman of the Committee on Foreign Affairs, and the distinguished Gentleman from Mandaluyong, President of the LDP, the controlling party in this Chamber. This bill, authored by such distinguished and prestigious Members of the Senate, is very much better than what is presented before us for approval.

Senate Bill No. 1474, with some refinements, could be an acceptable and suitable substitute to Senate Bill No. 1606. I request the Members of this Chamber to read that bill again and study it more carefully in comparison with Senate Bill No. 1606 that we are discussing today.

Mr. President, it seems unthinkable that a Legislature composed of Filipinos like this, would enact a law that would make the Filipino a second-class citizen, as it were, in his own country, and which violates a policy established by its Constitution.

If this should happen, our national heroes could well rise from their graves and, with unbelieving eyes, ask each other: "Are these the same people for whom we made the supreme and ultimate sacrifice?"

Thank you, Mr. President.

The Presiding Officer [Senator Aquino]: The Majority Leader is recognized.

Senator Romulo: Mr. President, there are several reservations for interpellations. However, because we shall have a caucus on the same bill this evening, our Colleagues have agreed that we shall resume consideration with the interpellations tomorrow.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1606

Therefore, with the consent of our Colleagues and Senator Tolentino, I move that in the meantime, we suspend consideration of Senate Bill No. 1606.

The Presiding Officer [Senator Aquino]: Is there any objection? [*Silence*] Hearing none, consideration of Senate Bill No. 1606 is hereby suspended.

Senator Romulo: May I remind our Colleagues, Mr. President, that if they have any proposed amendments to Senate Bill No. 1606 — Liberalizing the Entry of Foreign Banks — or those who have not yet submitted their proposed amendments to Senator Roco, the Chairman, may we ask them to please do so, so that we can take it up in tonight's caucus at seven o'clock, after we adjourn this afternoon's session.

Senator Maceda: Mr. President, just a parliamentary inquiry.

The Presiding Officer [Senator Aquino]: Senator Maceda is recognized.

PARLIAMENTARY INQUIRY OF SENATOR MACEDA
(Submitting Amendments on the Floor)

Senator Maceda: I just want to clarify this procedure. I just want to make sure that even if we do not submit amendments in writing to the Chairman of the Committee, this does not preclude us from following the usual procedures of submitting amendments on the Floor at the appropriate time.

Senator Romulo: That is correct, Mr. President.

The Presiding Officer [Senator Aquino]: That is correct.

The Majority Leader is recognized.

BILL ON SECOND READING
Senate Bill No. 1630 - VAT Refinements
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 1630 as reported out under Committee Report No. 349.

The Presiding Officer [Senator Aquino]: Resumption of consideration of Senate Bill No. 1630 is now in order.

Senator Romulo: Mr. President, we are winding up the

period of interpellations.

May I now ask that the Chairman of the Committee on Ways and Means, Senator Herrera, and Senator Maceda, who will interpellate, be recognized.

The Presiding Officer [Senator Aquino]: The great Senator from Cebu and Bohol, Senator Herrera, together with Senator Maceda, are recognized.

Senator Maceda: It is quite obvious that the Presiding Officer does not consider me great like the Senator from Cebu and Bohol.

The Presiding Officer [Senator Aquino]: Correction, please. The Chair considers the Gentleman the great Senator from the Ilocos Region.

Senator Maceda: Thank you, Mr. President. The Chair is always careful not to be charged with discrimination in this Chamber.

May I also take exception to the statement probably said in levity that the interpellation is winding down.

Mr. President, I was wondering why it is still necessary to pass the refinements of the value-added tax where, based on the statements of Commissioner Liwayway Chato as well as of the President, including the President's well-placed warning to the distinguished officers and members of the Federation of Filipino-Chinese Chambers of Commerce and Industry yesterday, not to mention the continuing sale of government assets under the Committee on Privatization, the original target of around P30 billion, including privatization, to be raised has already been met and more than met.

Senator Herrera: Mr. President, the refinement of the VAT is not just merely to raise revenues, but this is also part of our structural reforms.

As we know, with the VAT, this will simplify part of our tax system. This is one tax measure which is neutral in character unlike some tax laws now, like sales tax, which can be used to favor one item against another. As I said, primarily, this is part of our structural reform, Mr. President.

Admittedly, it has a great potential for revenues. But we should put a high premium on the purpose of enacting this, which is part of our structural reforms of our tax system, Mr. President.

Senator Maceda: Mr. President, the measure is described as a refinement of the value-added tax. Does the Gentleman not

recall that the original value-added tax was supposed to raise from P62 billion to P68 billion?

Senator Herrera: Yes, that is correct, Mr. President. In fact, in 1988, through an Executive Order, when this was enforced, the first target was just to replace the other tax measures which at the time generated something like P15.2 billion but unfortunately, when the VAT was implemented, the tax collection at that time for this particular bill was only about P13 billion plus. Later, as the Gentleman correctly said, the target was about P62 billion but what was realized was a little over P38 billion.

There are several reasons for this, Mr. President. One of the reasons is that there are several transactions that ought to be covered by this which were not covered in the existing VAT law. That is the reason we are trying to expand the tax base which is the most important aspect of this structural reform, especially in the matter of services, those who availed or hired services are mostly those who are from the middle class and upper class. And yet, they are not taxed.

Senator Maceda: Mr. President, let us accept the Gentleman's figure of P38 billion. Is this as of the end of 1993 or the end of 1992? Because I thought it was a much lower figure than that. But I may be using a 1992 figure.

Senator Herrera: Let me check my figure on this, Mr. President.

In 1988, the collection for that year reached only P13.7 billion or 2.12 percent of the gross domestic product. Therefore, as a consequence of that, we failed to collect about P2 billion more in order to replace the P15.8 billion that was collected by the other taxes which were eliminated as a result of the VAT. Then in 1992 collection, it reached P32.24 billion. The potential revenue for 1992 is supposed to be P63.78, Mr. President.

Senator Maceda: So, it is P32 billion.

Senator Herrera: P32 billion.

Senator Maceda: So, it is barely, in round figures, one half of what could be collected even under the present law.

Senator Herrera: Yes, Mr. President.

Senator Maceda: So that under the present law, we are not talking about certain businesses, services, or sale of goods that are not covered which the Gentleman wanted to cover now but about the 50 percent collection rate of 1992 or earlier. It is because there is something wrong with the collection machinery

on transactions that are supposed to be already covered.

Senator Herrera: Both, Mr. President. There is really a need to improve our collection performance. I think the mechanism for collecting this is something that has to be improved, and there is also a need to really expand the tax base.

Senator Maceda: Yes, Mr. President. Even granting *arguendo* that there is a need to cover certain goods and services, this should only add to the original 62 when we start covering all of these. As far as the original estimate of 62 is concerned, this refers to the transactions or sale of goods and services already specified under the present law.

The problem there is not that the items which the Gentleman is proposing in Senate Bill No. 1630 are not covered. But of the items already covered, the BIR has only a 50 percent tax collection efficiency.

Senator Herrera: That seems to be my analysis of the data given to me.

Senator Maceda: Even now, we will get any number of tax lawyers or tax experts to balance any number of other tax lawyers or tax experts who will insist that the VAT is not the proper tax. As has already been shown, it is hard to collect and hard to implement. It is going to hit the poor, especially the expansion of the base that the Gentleman is proposing. It is regressive and it is still being considered an indirect tax.

Is the Committee 100 percent convinced that after five years, we did not make a mistake in imposing the VAT in the first place?

Senator Herrera: I am very confident that we have not committed a mistake, Mr. President. On the other hand, there is really a need to continue strengthening the implementation aspect of this particular law.

Let me cite a specific instance. If we recall, there was even a controversy on how to treat the sale of gold to the Central Bank — whether or not it should be considered an export in order to take advantage of the privilege of the zero-rating measure as to the VAT. This is one good example where there seems to be a problem even in the interpretation of the existing law, not to mention that there is even a problem in the crediting and refund of those which are covered by the VAT, including the problem of inefficiency in auditing.

These are the major aspects that must have to be addressed, but these are now being gradually corrected. As I mentioned earlier, we really have to focus on the goods and services which

should be covered by the VAT. In order to make it really comprehensive, they should be included because they are not included under the present law.

Senator Maceda: Mr. President, as far as the P32 billion that has been collected as of the last complete period of 1992 is concerned, may I know how many items are covered by that P32 billion, and if the Gentleman has a breakdown of the same.

Senator Herrera: If we look into the provision of the existing law, of course there is a threshold on goods and services which are not covered under the VAT. The rest are covered with certain exemption because there are certain exemptions. Among these exemptions are, of course, the professionals. Kasama na diyang actors and actresses whom we intend to be included in this VAT refinement.

Now, the sale of pesticide is among those which are excluded, which we are now including; the real property or the land developers are excluded, and now, we would like to include these, and there are certain exemptions granted to certain sectors which should not be included. Therefore, under this proposal, we are including them in the coverage of the VAT.

Now, the question of the distinguished Gentleman as to the specific income for specific sectors included in the present VAT...

Senator Maceda: Mr. President, just so we are in the right direction, what I would really like to establish is where the P32 billion was collected from. Accepting that there is a potential of P62 billion plus, where was this P30 billion uncollected from, where was this supposed to be coming from? I just want to get an idea why there has been a noncollection of P30 billion basing on a breakdown as to where the P30 billion should have been sourced from.

Senator Herrera: I suppose this is spread to various goods and services which are covered, Mr. President.

As to the request of the distinguished Senator that we get the data on this so that we can identify the areas where there is a high incidence of failure to collect, we will see to it, Mr. President, that we will be able to provide him the data tomorrow.

Senator Maceda: Yes. Because it would be interesting to see — of the P32 billion or of the total P62 billion, shortage 30, so to speak — which sector is already paying 70 or 80 percent or more, which sector is paying only 10 or 20 percent. Based on a study of these different sectors or these different kinds of goods and services already covered as to the percentage of payment that they are making in relation to the target, we might have a

better basis for determining which of these proposed additional items to expand the base could really raise the highest percentage of collection.

If it is similar to certain sectors now where we are efficient in collection, then maybe we should concentrate on those. Because the reality sometimes is that, we insist on collecting from so many different kinds of services and goods and then we come out with the result that the collection is sometimes even zero. The best example is jewelry. If I recall, after a certain point in time, there was zero—let us say, for example—import duties from jewelry. We know that there is continuous importation. There are sectors like that.

I just want to have a more rational basis. When we start proposing pesticides, restaurant/caterers, motels/hotels, intangibles, professionals, athletes, artists, lease of real properties, sale of real properties, securities dealers, lending investors, even accepting that they could be covered, the other point that I would like to see based on existing experience, is: Which of these will produce the maximum return so that we can intelligently say, if the Senator from Quezon City, Nueva Ecija and Cebu says, "why do we not exempt the professional athletes and artists where they will probably only pay P40 or P50 million, considering the realities," we may be able to accommodate the request of certain areas for exemption where there is some indication that putting them under the VAT will not produce a high percentage of collection anyway.

Senator Herrera: I certainly agree with the Gentleman, Mr. President. I see his point, and I can agree that it is important to identify where our collecting agencies failed to collect the balance of the P62 or P63.78 billion. That is why, what we intend to do is to identify this. We have the data and we will provide the Gentleman with the data he is asking.

I also agree that we really have to review the areas we propose to be included in the coverage of the VAT where there is likely a high collection potential, because there is no sense including them in the coverage if the potential tax that can be collected in that particular sector is only very, very minimal.

Senator Maceda: Yes, Mr. President. I wish to thank the distinguished Gentleman for agreeing. The actual figure here is that the estimated potential collection was P63.8 billion. The actual yield in 1992 was P32.4 billion. The difference of the amount not collected is P31.4 billion which is quite big.

Now, under the House version which includes basically pesticides, restaurants and caterers, hotels, motels, intangibles, and even adds new exemption for cotton, copra and molasses, how much will this measure bring in, assuming a high 100 percent or 80 percent collection efficiency?

Senator Herrera: The estimate that was given to me, Mr. President, is something like P400 million.

Senator Maceda: Under the Senate version, Mr. President, how much is it?

Senator Herrera: A very conservative estimate of P2.4 billion, Mr. President.

Senator Maceda: Mr. President, even under the Constitution, the House is the primary actor in the matter of imposition of revenue measures. And the House, being more directly representative, is meant to represent, in a direct way, the bigger number of people. That is why they are given the initial power of appropriation and the initial power of revenue.

If the Members of the House say that they feel they would only like to expand the VAT by P400 million, why are we suddenly more popish than the Pope and going six times more than what the House wants to impose?

Senator Herrera: Mr. President, I think one of the justifications why there is this second Chamber is to see to it that there can be further refinement in what the other Chamber proposed, or maybe to check on the other Chamber. I am not saying that that is only the exclusive role of the Senate. But if what is approved in the House will just be automatically approved in the Senate so that the function of the Senate is purely ministerial, then I am afraid that I have to agree with the unicameral move because then the Senate, as a separate Chamber, becomes a useless Chamber.

The other point that I would like to stress here, Mr. President, is that we have to understand the dynamics of decision-making in the House. Maybe, because of their direct link to the people, as the Gentlemen said, they are subjected to tremendous pressure not only from among their Colleagues but also from people outside of the House.

That is the reason why it is not unusual, Mr. President, that in few instances, after they approve a particular measure, they come to the Senate and ask us to amend what they have approved.

This is part of the reality that we have to consider, Mr. President. In fact, in this particular measure, I talked to some Members of the House who are Members of the Ways and Means Committee. They also expressed some — I would not say misgivings — but it is as if conveying the message that maybe in these exemptions that they granted, the Senate can review them, and they are willing to consider these exemptions during the Bicameral Conference.

Senator Maceda: Well, Mr. President, I will not argue nor differ with the Gentleman on the question of the Senate being checked. What I am trying to say, in a very roundabout way, is that the normal procedure or the normal course of action would have been that the House, being the initiating Body, imposes a lot of excessive taxes and the Senate then checks the House by refusing to go along with an excessive number, or excessive rates, or excessive impositions, and that would be a normal happening.

But considering an area where the House has the primary role, constitutionally speaking, that it has imposed taxes on a limited number — it is surprising that the House is willing to go along with the Administration, it being controlled by the Administration — only to the tune of P400 million, and here we are the Senate, being the checking body, instead of reducing that P400 million maybe to P200 million — because we should be, as a rule, against any additional taxes — we are increasing it not twofold to P400 million; not threefold to P1,200,000; not fourfold to P1,600,000; not fivefold to P2 billion, but we are increasing it sixfold to P2.4 billion.

It is difficult to understand why, as I said, the Senate would be the principal tax-imposing body between the Bicameral Houses when it is really the House that should normally impose most of these taxes, and the Senate should normally reduce instead of increasing very surprisingly six times, as I said, or sixfold what has been passed by the House.

Senator Herrera: That is precisely the reason, Mr. President, why on the first question of the Gentlemen, I emphasized that we should not look at the VAT refinement from the revenue standpoint. It has a more important mission and that is to institute structural reforms.

Now, the revenue that the Senate version will be able to generate is more of a result of the structural reforms which is to provide equity and, at the same time, to make sure that our main source of revenue should be one that is neutral, Mr. President.

And, of course, as I said, a major component or dimension of this is its equity aspect. We have to be fair and just. Taxation should be uniformly designed to see to it that those that ought to be covered, should be covered.

Senator Maceda: In one of today's newspapers, namely, the *Manila Times*, in its Business Times Section, there is a headline, Mr. President, and I guess one can see it from here, "VAT refinements crucial to IMF loan."

Although we have said this over and over again for the record, I would just like to take note of the fact, and ask whether

the Gentlemen agrees that the proposed VAT refinements bill that he is sponsoring is, indeed, crucial to the IMF loan. I will read the first two paragraphs.

"The International Monetary Fund is closely watching the outcome of Senate deliberations on a proposed law that will strengthen the country's Value-Added Tax system.

Officials surmise that the result of the debate will help determine whether or not the Philippines will firm up an agreement with the visiting IMF team before the current round of talks are over by the end of the month."

Firstly, does the Gentlemen agree with this; secondly, is this the reason we are rushing this bill before the end of the month; and thirdly, are there any IMF watchers in the Hall today?

Senator Herrera: I am not very sure as to the third question, whether there are IMF watchers in the Chamber today. As to the first question, whether the VAT is very crucial as far as the IMF is concerned, to my mind, Mr. President, that is irrelevant as far as I am concerned. My concern is that we have to institute structural reforms. We really have to seriously look for measures that will bridge the funding gap in order that we can reduce the deficit; and hopefully, as we reduce the deficit, we will be able also to control the inflation rate. At the same time, Mr. President, if we can reduce the interest rates, I think that will be good for the economy. Now, it might be that it is also what the IMF wants.

I would like to stress, what is important is that we have to legislate this particular measure because this is needed by our economy and this will go a long way in stabilizing our economy.

Mr. President, probably, as a consequence of having a stable economy, we will be able to improve the fiscal management of this country, then the IMF access program can be accelerated as a consequence of that.

Senator Maceda: Well, Mr. President, I am glad that the Gentleman again brought in what we were debating during the DST debate, the concept of the funding gap, the concept of reducing the deficit.

Mr. President, in the Tuesday Breakfast meetings did we not already get commitments that the funding gap and the deficit would be reduced by a new effort, by everybody - Executive and Legislative Department included, to reduce expenditures; as a result of which, even in the Senate, we have reduced our expenditures of MOOE by 10 percent?

Senator Herrera: I think, Mr. President, the entire Government is committed to a prudent use of our government funds, a prudent expenditure because that is necessary. Reducing expenditure may not necessarily be a prudent way of using our resources. I would rather say that all of us, especially the Presiding Officer, knowing him, he is very committed to look for a prudent way of using our resources.

Senator Maceda: Mr. President, the proposed Senate version, as already admitted, is supposed to raise P2.4 billion. How can we solve the funding gap and reduce the deficit when already there is being proposed a P102 billion increase in the proposed 1995 budget which is already in the making? What use is the P2.4 billion when, on March 28, the President will leave — the beginning of another eight trips this year — for Vietnam?

I am really at a loss to understand how the distinguished Chairman of the Committee on Ways and Means retains so much enthusiasm and optimism and accepts all the representations after a round of sinangag, tinapa, tocino, papaya and scrambled eggs fanned by the new “ang humahalimuyak na Pasig River na puwede na raw paglanguyan” sabi ni Secretary Alcala. I really cannot understand how this bill would really help solve this problem except that it is again in answer to our master’s voice — in the word of the Presiding Officer — the great people from Washington, the IMF and the World Bank.

Senator Herrera: First of all, Mr. President, I do not know if the Gentleman has accepted IMF as his master, but as far as I am concerned, IMF, to me, is irrelevant in this debate.

On the second issue about the P121 billion increase of the budget over 1994, Mr. President, what I understand from the Executive Department, in an answer when the Gentleman criticizes this, is just the budgetary ceiling. But I would like to assure him that when they submit that budget to Congress in July, I will be among the first to object, because I feel that if we would like to improve the fiscal condition of the Government, one of the important activities of this Government is to have a prudent attitude in the spending of our resources.

As to the issue, Mr. President, on how the P2.4 billion estimated potential incremental revenue of this particular measure will help bridge the funding gap, this is just one of the several measures which the Government intends to implement in order to reduce the deficit of this Government.

The Gentleman is aware that in one of the meetings in Malacañang wherein he was present, and in the meeting wherein the Senate invited the President, there were some Executive measures introduced. In fact, if I recall correctly, it was a very wise advice when the Gentleman said to the President “let us

divide the amount of P10 billion between the Legislative and the Executive Department.” In that way, the responsibility of raising more revenues should not be entirely the responsibility of Congress.

At the same time, the Gentleman’s voice is one of the strong voices in this Hall, always reminding and objecting to flagrant and wasteful use of government finances. This is also one of the measures also to bridge that gap by seeing to it that our expenditure program will, as much as possible, adhere to the expected income of the Government.

If we look at the economic program of the Government, in 1994 we expect that with the P4.5 growth of the GNP, the deficit will be limited to not more than 2 percent in relation to GNP; and that in 1995, the deficit is estimated to be not more than 1.4 percent of GNP.

Now, with this, Mr. President, there can only be one conclusion, that is, the Administration — and I hate to play the role of the defender of this Administration — is not only targeting to improve the collection performance, it is also reducing the expenditure.

Senator Maceda: Mr. President, the basic law, which is Section 99, Chapter I, Title IV of the National Internal Revenue Code reads:

SEC. 99. *Persons Liable* - Any person who, in the course of trade or business, sells, barter or exchanges goods, renders services, or engages in similar transactions and any person who imports goods shall be subject to the value-added tax (VAT) imposed in Sections 100 to 102 of this Code.

Before I go to Section 102 where I really want to go, I am just reminded the word “barter” is used. May we know how much VAT has been collected in Zamboanga City or in the BIR regional district that covers Zamboanga City, Sulu and Tawi-Tawi?

Senator Herrera: May we include that in the data that we will provide to the distinguished Gentleman, Mr. President? We do not have now the breakdown of the income coming from value-added tax, but we have these data. We assure the distinguished Gentleman that we can give the data to him tomorrow.

Senator Maceda: Under this Section, as worded, is the barter trade flourishing in that part of the country subject to the value-added tax of 10 percent?

Senator Herrera: Frankly, Mr. President, I am not very familiar of the charter regarding this barter trade. I understand that they are free from payment of all taxes.

Senator Maceda: Under what exemption or law gives them the exemption because this is relatively new? As we know, this was just passed in 1988, and barter has been going on for decades.

Senator Herrera: I think there is a presidential decree. We will try to secure the presidential decree, Mr. President. Because if we remember during our first or second year in the Eighth Congress, there were several Muslim leaders who came here to ask that Davao port be included in the barter trade.

Senator Maceda: But I also recall, Mr. President, that we have so many laws covering illegal possession of firearms; we have so many laws requiring registration of firearms; we have Operation *Paglalansag* alias Operation *Kalansag* where, in spite of all those laws, they are not implemented or they are not made to cover this same part of the country that I am raising right now.

As the Sponsor said, he will submit it. I just want to make sure what is now the present status of the law as far as the barter trade is concerned.

Senator Herrera: I am sure that is still existing because the barter trade is still going on in Zamboanga. As to the specific question whether the barter trade is covered by VAT, I think it is not under that presidential decree. But let me check on that, Mr. President.

Senator Maceda: Thank you, Mr. President.

Going to Section 102, Value-Added Tax on sale of services, which is really a major issue even in the Sponsor's proposed bill. It reads:

There shall be levied, assessed and collected, a value-added tax equivalent to 10% of gross receipts derived by any person engaged in the sale of services. The phrase "sale of services" means the performance of all kinds of services for others for a fee, remuneration or consideration, including those performed or rendered by construction and service contractors, stock, real estate, commercial, customs and immigration brokers, lessors of personal property, lessors or distributors of cinematographic films, persons engaged in milling, processing, manufacturing or repacking goods for others, and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental facilities.

Now, to begin with, do we have some sort of a comprehensive list, especially considering the addition of the words "and similar services" as to what services are covered by VAT at the present and what services are not covered by VAT?

Senator Herrera: First of all, Mr. President, as I mentioned earlier, there is that threshold or a cut off on what goods and services shall be covered by the VAT.

Right now, Mr. President, I will mention those that are not covered by the VAT: services of actors, actresses, talents and athletes; services of educational institutions.

Senator Maceda: How about nightclubs, bars, and hostesses, are they covered? That is the traditional concept of sale of services, Mr. President.

Senator Herrera: They are not also covered, Mr. President.

Senator Maceda: Why not?

Senator Herrera: Precisely, that is why we have to cover them.

Senator Maceda: But the present law accepts of similar services and that could be provided for by regulation. That is why I want to know what similar services, by regulation, are being added to the enumeration in the law.

Senator Herrera: Just a minute. Let me go over the documents.

Senator Maceda: I notice that under both versions there is VAT being proposed for motels and hotels.

Senator Herrera: Yes, including restaurants and caterers, Mr. President. They are proposed to be covered.

We are also including now, maybe, the talents that the Gentleman mentioned like the hostesses and others. As long as they are within or above the threshold, I think they are supposed to be covered.

Now, if these places of entertainment are considered amusement activities, then they are not covered under the present bill.

Senator Maceda: How about the tickets to the Pavarotti concert tonight where I have a ticket given by a friend? This is how it looks, if I may show it to the Gentleman. Embossed, "PAVAROTTI" and at the back it says, "You are seated on VIP green, Row A, seat No. 4." It does not have a price, but this is

supposed to be P25,000.

Is this subject to VAT?

Senator Herrera: With regard to the point raised regarding the ticket, Mr. President, I think that is covered under the amusement tax, not under the VAT.

Senator Maceda: How about the \$750,000 paid to Pavarotti? Is that subject to VAT?

Senator Herrera: Under our proposal, that should be covered.

Senator Maceda: No, at the present time.

Senator Herrera: Artists, I think, are not covered by VAT. The works of arts are also excluded under the present law.

Senator Maceda: Yes. But the present law states that the phrase "sale of services" means the performance of all kinds of services for others for a fee, remuneration or consideration — all kinds of services are covered, unless there are exemptions. There are three exemptions in the law which are here.

Senator Herrera: That is precisely the reason we are proposing this VAT refinement in order to include them in the coverage. Because right now they are exempted under Section 103.

Senator Maceda: But why should they be exempted right now when the definition of sale of services is all inclusive, "the performance of all kinds of services for others for a fee, remuneration or consideration, including the following..."

Senator Herrera: Unfortunately, Mr. President, under the same law that the Gentleman mentioned, there is a list of exemption. Under Section 103, letter (o) — "Services performed as actors and actresses, talents, singers and emcees; radio and television broadcasters, choreographers; musical, radio, television and stage directors" — they are exempted.

Senator Maceda: But in this particular section, hostesses are not included. Or does the Gentleman consider them as talents?

Senator Herrera: If we classify them under talents — I do not know what talent is that — then they are exempted. That is precisely the point why there is really a need to lift the exemption.

Senator Maceda: According to the Majority Leader, they

are more assets than talents. [Laughter]

How about masseurs and masseuses, are they covered? When I now go to Holiday Inn, they have increased their price by 50 percent. But they charge, so they are covered.

Senator Herrera: If they are employed by the firm, then they are not covered. So if these favorite masseurs of the Gentleman are employed — there is the employer-employee relationship — they are not covered.

Senator Maceda: But when we pay to the athletic club or to the Holiday Inn, they charge the 10 percent VAT.

Senator Herrera: I do not know how they charge this —

Senator Maceda: They charge 10 percent.

Senator Herrera: — but with regard to the one who is performing the massage, and he or she is an employee, he/she is not covered.

Senator Maceda: I do not know if they are employees. I know they have no fixed salary; they are on commission per massage.

Senator Herrera: It could be that they are employees and, at the same time, they get commissions. But still, there is that employee...

Senator Maceda: But suppose they only get commissions and they have no fixed salary. And that would be the normal...

Senator Herrera: If I am not mistaken, Mr. President, I think there is a jurisprudence on that. When one is paid by commissions like salesmen, he is also considered an employee.

Senator Maceda: If the Gentleman goes to a barbershop in Colon, Cebu, does he pay VAT for his haircut?

Senator Herrera: First, I do not think barbers are earning more than P200,000. That is the threshold now. So, they are not covered. The other is that if these barbers are employees...

Senator Maceda: Is it to the barbers, or is the P200,000 for the whole barbershop? The Gentleman is correct when he is talking of individual barbers, but if we have six-seat or 12-seat barbershop, then that will probably be earning even over a million these days.

Senator Herrera: Then they should be covered.

Senator Maceda: So if it is a one-man barbershop and he does not earn more than P200,000, he is not covered?

Senator Herrera: That is the present threshold. Below the P200,000, they are not covered. In fact, during the period of amendments, we intend to increase this threshold because this was formulated in 1988. Since 1988 the purchasing power of the peso has lost several percentage points. Maybe we have to raise this to P300,000 or to P350,000 so that even the professionals, especially the young lawyers, who are not earning P300,000 or P350,000 are not covered by this.

Senator Maceda: But should it not be a matter for the Secretary of Finance and the Bureau of Internal Revenue to decide because that is authorized in the present law?

Senator Herrera: Yes. Under the present law, he is given an authority between P100,000 and P500,000.

Senator Maceda: That is correct, Mr. President, under Subsection (w) of Section 103.

Senator Herrera: Is the Gentleman suggesting that this is a matter that should have been looked into by the Secretary of Finance without necessarily waiting for Congress to adjust this?

Senator Maceda: Mr. President, just like the minimum wage law and income taxes, when we say P200,000, they are probably declaring only one-half of their income. We should factor in already the tax evasion that is present in the system. If we increase it to P300,000, it will be more. It would seem to me that the direction should be — since the Gentleman's purpose is more revenue — to reduce the P200,000 to P100,000 instead of increasing it to P300,000, if his intention is more revenue.

Senator Herrera: I am glad that the Gentleman puts a condition on that, because I pointed out in his early questioning that this is also a structural reform, and we would like to see to it that there will be equity also. We know that in 1988, when the threshold was decided, the value of the peso eroded, and we thought that there should also be a corresponding adjustment.

But the Gentleman's attitude and sentiment about this matter are very consistent also with the idea of the VAT refinement. I wish he can coauthor this bill.

Senator Maceda: Mr. President, maybe when the Gentleman becomes President, I will be sponsoring some of these measures when I am convinced that whatever money we will give him will be used properly and will not be used for trips abroad. *[Laughter]*

Senator Herrera: In going to Vietnam.

Senator Maceda: What is the policy now of the Committee with regard to the general area of agricultural and marine products? Can we review that for the record, please?

Senator Herrera: I suppose the Gentleman's question is related to the VAT.

Senator Maceda: That is right, Mr. President.

In the same way what the Gentleman is saying, the House of Representatives has only four and we should have eight. We should also discuss why this eight and why not the 80 others that are still not covered.

Senator Herrera: Mr. President, as to the Gentleman's specific question on the sale or importation of agricultural and marine food products, we are including them as among those that will be exempted from VAT, if these are sold or imported in their original state, so that on the farmer or fisherman level, they should not be covered. But once the products are being traded, for instance, rice mill, trading rice, that should be covered by VAT.

Senator Maceda: How about the poppy flowers that were imported and which the Gentleman investigated, Mr. President. Are they supposed to be covered by VAT?

Senator Herrera: In the first place, they ought not to have been allowed to be imported because that is prohibited by law.

Senator Maceda: Supposing in that case where there are prohibited importations, as long as they come in officially through the Customs zone and they are traded through the flower shops, irrespective of whether they are prohibited or not, the VAT should apply, is that not correct, Mr. President?

Senator Herrera: In that case, yes.

Senator Maceda: Mr. President, what is the rationale for taxing the services performed by professional athletes?

Senator Herrera: The main idea of this VAT refinement is really to cover, if possible, all goods and services, and exempt, perhaps, those which are related to basic services, like that of the doctors and dentists. Now, professional athletes are among the highest paid professionals. And it is only equitable that they have to be treated like the other professionals. Therefore, they should be covered by the VAT.

Let me just inject this point that the VAT, contrary to some

speculations or perceptions, does not really mean that it is an additional burden on the people who are covered by it. Several taxes have been substituted by the VAT, and many of these taxes are more burdensome.

Consider, for instance, the sales tax. There were sales taxes from 10 percent to 30 percent depending on the items. Now, this is being substituted by the VAT.

In this program now of having a comprehensive review of our entire tax system, as soon as we will be able to put in place the VAT refinements, the next measures that will come will be more on eliminating certain taxes, some of which are regressive. For the other taxes, there is no sense in pushing them because the revenue potential is very low that the administrative cost of enforcing these taxes is costlier than the revenue earned.

This is an attempt that will result to a substantial restructuring of our tax system, Mr. President.

Senator Maceda: Mr. President, looking at one or three exempt transactions, will the Gentleman kindly educate and inform this Representation which of these subsections (a) to (w) already exempt restaurants and caterers so that now he has to specifically say that they are included.

Senator Herrera: The restaurants and caterers are covered under a different tax measure. I think that is in the percentage tax. It is very complicated in the case of restaurants or caterer. I understand that if one eats in the restaurant, he is charged only 4 percent. One buys the goods from the restaurant and he pays 8 percent to 12 percent. So, this is a very complicated tax system in which caterers and restaurants are covered. So, we transferred them to the VAT in order to simplify that. They are paying more under the existing law which they are covered — the percentage tax system.

Senator Maceda: They are paying 4% caterer's tax. So, we are increasing them to 10%. The 4% caterer's tax will be removed, or is the 10% in addition to the 4%?

Senator Herrera: If the Gentleman will remember, Mr. President, that is gross.

Senator Maceda: Yes.

Senator Herrera: Not only that. We have to draw a distinction. If I am not mistaken, if one eats the food that he buys in the restaurant, he pays less. If he brings it out, he pays more. And then, there are certain items that we have to pay. We are trying to simplify that.

Senator Maceda: So, the Gentleman is saying, when I go to Jollibee tomorrow, if I buy and eat there, I pay 4%. If I take out the bacon cheeseburger and go to the Luneta and eat it there, I pay 10%.

SUSPENSION OF THE SESSION

Senator Herrera: May we have a one-minute suspension of the session?

The Presiding Officer [Senator Aquino]: The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 6:51 p.m.

RESUMPTION OF THE SESSION

At 6:51 p.m., the session was resumed.

The Presiding Officer [Senator Aquino]: The session is resumed.

Senator Herrera: Mr. President, under the present sales taxation of restaurants and caterers, caterers and restaurants are subject to 4% on gross receipt, while 8% is levied on their gross receipt from the sale of permitted liquor or wine. Furthermore, there is a difference if the food is eaten inside the restaurant or it is taken outside. For food eaten inside, a 4% caterer's tax is imposed. For food taken outside, a 10% VAT is imposed. The proposal now is to impose a uniform VAT of 10%.

So, the Gentleman is correct in his query.

Senator Maceda: But if the Gentleman will notice the prices in McDonalds, Jollibee, Wendy's, Burger Machine, they are all the same, whether one eats in or he eats out.

Senator Herrera: I have not really checked on that, Mr. President. I do not know if the prices that they indicate in the billboard are already inclusive or exclusive of taxes.

Senator Maceda: Yes. But then there is a distinction between eating in and eating out. I do not know what kind of tax administration is being applied there. But then, as the Gentleman said, maybe, this is one area where it is a step in one direction. The Gentleman is saying now that whether we eat in or we take out, it will be subject to one rate of 10%.

As far as pesticides are concerned, does this include insecticides, fertilizers and the like, or this is specifically only pesticides?

Senator Herrera: These are pesticides, herbicides, and chemicals for the formulation of pesticides. This is really upon the request of these people who are concerned about the environment and the harmful effects of pesticides that they would like them to be covered under VAT.

Senator Maceda: So, it does include insecticides?

Senator Herrera: I suppose so, it is included.

Senator Maceda: But it does not include fertilizers?

Senator Herrera: It does not include fertilizers, seeds, seedlings and fingerlings. So, fertilizers could be exempted.

Senator Maceda: Yes, Mr. President, but I really have not come to a conclusion on this. While I generally support environmental measures, I wonder whether the impact of taxing another 10% on pesticides and insecticides on the farmer and on the price of rice, vegetables and other agricultural products has been studied. If the environmental consideration is established, then the remedy is to prohibit their use or importation as the great Presiding Officer knows. But imposing a 10% tax for that reason does not seem to jibe with the general principle that we should try to lessen the tax on agricultural and marine products and lessen taxation on the poor farmers as a general rule. Because it will be passed on to the farmers. There is no doubt about it.

Senator Herrera: In fact, Mr. President, this is one way also of encouraging farmers to use organic fertilizers rather than these pesticides and other chemicals which have been found to have harmful effects on the health of the farmers.

I agree with the Gentleman that, to a certain extent, this might be an added cost to the farmers for those who are using pesticides.

Senator Maceda: It will be, for sure, Mr. President. Another 10% up. And if they take advantage of the 10 percent, it might even be more than 10% passed on.

Senator Herrera: I happen to visit one farm. Mr. President, where they are no longer using pesticides. What they are using is this hot chili, mix that with water and this is what they use in killing insects affecting their farms. Probably, this is one way of encouraging them to be more innovative.

Senator Maceda: Going back to Section 102 just for the moment. Will the Gentleman kindly explain to me — I am referring to the lower part of the first paragraph with the "Provided". Section 102. "Provided that the following services performed in the Philippines by VAT registered persons shall be

subject to zero percent." There are three here. What is the difference between the three here which is subject to zero percent and Section 103 which is exempt transactions, to begin with?

Senator Herrera: Mr. President, in the case of processing and manufacturing or repacking goods for persons doing business outside the Philippines which are subsequently exported, and where the services are paid for in acceptable foreign currencies inwardly remitted, this is considered as subject to 0%. But if these conditions are not complied with, they are subject to the VAT.

In the case of No. 2, again, as the Gentleman pointed out, these three are zero-rated and the other one that he indicated are exempted from the very beginning. These three enumerations under Section 102 are zero-rated provided that these conditions indicated in these three paragraphs are also complied with. If they are not complied with, then they are not entitled to the zero ratings. Just like in the export of minerals, if these are not exported, then they cannot qualify under this provision of zero rating.

Senator Maceda: Mr. President, just one small item so we can leave this. Under the proviso, it is required that the following services be performed in the Philippines.

Under No. 2, services other than those mentioned above includes, let us say, manufacturing computers and computer chips or repacking goods for persons doing business outside the Philippines." Meaning to say, we ship the goods to them in Chicago or Washington and they send the payment inwardly to the Philippines in foreign currency, and that is, of course, zero-rated.

Now, when we say "services other than those mentioned in the preceding subsection", may I have some examples of these?

Senator Herrera: Which portion is the Gentleman referring to?

Senator Maceda: I am referring to the second paragraph, in the same Section 102. The first paragraph is when one manufactures or packages something here and he sends it abroad and they pay him, that is covered. That is clear to me. The second paragraph says "Services other than those mentioned in the preceding subparagraph, the consideration of which is paid for in acceptable foreign currency..."

One example I could immediately think of — I do not know why this comes to my mind tonight — is for tourism or escort services. For example, the services of the tour operator or tour

escort — just a good name for all kinds of activities — is made here at the Midtown Ramada Hotel or at the Philippine Plaza, but the payment is made from outside and remitted into the country.

Senator Herrera: What is important here is that these services are paid in acceptable foreign currency remitted inwardly to the Philippines.

Senator Maceda: Yes, Mr. President. Like those Japanese tours which include \$50 for the services of a woman or a tourist guide, it is zero-rated when it is remitted here.

Senator Herrera: I guess it can be interpreted that way, although this tourist guide should also be considered as among the professionals. If they earn more than P200,000, they should be covered.

Senator Maceda: I guess it is a matter of proving that they earn more than P200,000.

Senator Herrera: We shall see to it that either in the law itself or in the implementing rules, these matters should be clarified.

Senator Maceda: It says that the following services performed in the Philippines shall be subject to 0%. Does that mean that the services are performed outside the Philippines?

Take the case of an entertainer who goes to Brunei and earns a hundred thousand dollars and the amount is remitted to the Philippines, are they subject to VAT?

Senator Herrera: That is the import of this provision, Mr. President. They should be covered under VAT because their services are not performed in the Philippines.

Senator Maceda: So, the services by Filipino citizens outside the Philippines are subject to VAT, and I am talking of all services. Do big contractual engineers in Saudi Arabia pay VAT?

Senator Herrera: This provision applies to a VAT-registered person. When he performs services in the Philippines, that is zero-rated.

Senator Maceda: That is right.

Senator Herrera: Under our proposal now, all professionals — that include talents and entertainers — shall be covered as long as their income is above the threshold.

Senator Maceda: How does the Gentleman classify guest

relation officers, are they talents or entertainers?

Senator Herrera: They are considered among the professionals.

Senator Maceda: They are really professionals.

Senator Herrera: Unless the Gentleman is referring to guest representatives vis-a-vis, Brunei beauties. I do not think they should be considered as professionals. They should be considered as talents.

Senator Maceda: The guest relations officers at the Pegasus probably make P500,000 a year.

Senator Herrera: Those are not the professionals I am referring to, Mr. President.

Senator Maceda: That is why I am asking the distinguished Gentleman, because that is how they are classified; they are GROs.

Senator Herrera: They should be considered as talents and entertainers. Therefore, they should be covered.

Senator Maceda: I will take the word of the Senator for it. He is the sponsor, and if he says they are talents or entertainers, then so be it. I just want that placed in the *Record*, Mr. President.

Senator Herrera: I am sure that the Gentleman wants them to be covered, Mr. President, knowing his crusade against these guest relation talents.

Senator Maceda: Sometimes I want them covered, sometimes I want them uncovered, Mr. President. *[Laughter]*

Senator Herrera: That is classic, Mr. President.

Senator Maceda: At least, I got the great Presiding Officer to laugh.

I think we have a caucus, Mr. Majority Leader.

The Presiding Officer [Senator Aquino]: Yes.

Senator Maceda: So, we will continue after the Holy Week.

The Presiding Officer [Senator Aquino]: The Majority Leader.

Senator Herrera: Are we now terminating the interpellation?

Senator Maceda: I have not winded down yet, Mr. President.

Senator Herrera: We have already covered the Brunei beauties, and I thought that was the end of it.

Anyway, Mr. President, we will continue tomorrow.

Senator Romulo: I think the next phase according to the distinguished Gentleman from Manila, Ilocos Sur, and Laguna is, after the coverage, the uncoverage.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1630

So in the meantime, I ask that we suspend consideration of the VAT refinements bill.

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

BILL ON SECOND READING
Senate Bill No. 397 - Omnibus Investments Code
(Continuation)

Senator Romulo: Mr. President, I move that we now resume consideration of Senate Bill No. 397 as reported out under Committee Report No. 380, the Omnibus Investments Code.

Mr. President, we have terminated the period of interpellations.

The Presiding Officer [Senator Aquino]: I think Senator Tolentino wants to say something.

Senator Tolentino: Yes, Mr. President. I was just going to suggest that the distinguished Chairman of the Committee on Ways and Means prepare for us some guide for further interpellations on the VAT bill. As indicated or hinted by the Gentleman from Manila, Ilocos Sur, and Laguna, perhaps, there can be a comparative listing — what are now covered by the law and what are going to be covered by the bill — so that we can see more easily rather than going over all these many pages. If that can be done, that will shorten perhaps our interpellations.

The Presiding Officer [Senator Aquino]: The Chairman of the Committee on Ways and Means is nodding. So, I assume this is to be taken care of.

Senator Herrera: We will do that tomorrow, Mr. President.

The Presiding Officer [Senator Aquino]: Tomorrow, Senator Tolentino.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 397

Senator Romulo: Mr. President, in view of the caucus, I move that we suspend consideration of Senate Bill No. 397.

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

Senator Romulo: Mr. President, may I just inform our Colleagues that printed copies of Senate Bill No. 1127, the Stock Transactions Tax, which we have just approved on Second Reading, have been distributed on the desk of each of our Colleagues.

The Presiding Officer [Senator Aquino]: That is correct.

Senator Romulo: Also, Mr. President, the printed copies of House Bill No. 10693, the Tax Relief on the Mining Industry bill, also approved on second Reading, have been distributed on the desks of our Colleagues in this Chamber.

The Presiding Officer [Senator Aquino]: That is correct.

Senator Romulo: Therefore, Mr. President, on the third day, after these printed copies have been submitted, they may be considered for Third Reading.

The Presiding Officer [Senator Aquino]: All right.

Senator Romulo: Mr. President, may we also advise our Colleagues that tomorrow, we shall take up the Anti-Pilferage Bill, Senate Bill No. 1237; the Liberalization of the Entry of Foreign Banks; the VAT Refinements; the Amendments to the Omnibus Investment Code; and the sponsorship for the Integrated Shelter and Urban Development Financing Act, in addition to the other bills that we cited last Thursday which are already in our Calendar.

Mr. President, may I remind our Colleagues of our caucus so that we can take up these pending bills starting with Senate Bill No. 1606, the Liberalization of the Entry of Foreign Banks. The caucus will be held immediately after we adjourn the session.

ADJOURNMENT OF THE SESSION

So, with that, Mr. President, I move that we adjourn this evening's session until 9:30 tomorrow morning.

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implementation. On our part, we do what we are supposed to do in legislation. So, nobody should blame us.

Senator Maceda: I just wanted to put that on record, Mr. President, because the poor hardworking Senate President and the Chairman of the Ways and Means Committee always have to go to Malacañang to listen to these entreaties. And afterwards, they are still blamed for the failure of the Ramos Administration, when, as the Sponsor said, these things are not really the be-all and the end-all of it. Sometimes, the investment climate is affected by such things as to whether a Cabinet member will attend a birthday of the President or a Pavarotti concert. That is part of the problem in this country today. I do not know where we are going or where we are coming from.

This Administration seems to be confused as to the kind of investments it wants. Now, it wants investments from Vietnam. I do know what kind of investments they will get from Vietnam. Maybe some investments in security munitions plant, where, according to the Chairman of the Blue Ribbon Committee, who disagrees with me most of the time. I am glad that he is at least smiling now and agreeing with what I am saying.

Anyway, thank you very much, Mr. President, for listening to my frustrations this morning.

Senator Macapagal: Thank you, Mr. President.

Senator Mercado: Mr. President, I move that we close the period of interpellations on this measure.

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

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 397

Senator Mercado: Mr. President, I move that we suspend consideration of Senate Bill No. 397.

The Presiding Officer [Senator Lina]: Is there any objection? [*Silence*] Hearing none, consideration of the measure is hereby suspended.

SUSPENSION OF THE SESSION

Senator Mercado: Mr. President, I move that we suspend the session until four o'clock this afternoon.

The Presiding Officer [Senator Lina]: Is there any objection? [*Silence*] Hearing none, the session is suspended until four o'clock this afternoon.

It was 12:01 p.m.

RESUMPTION OF THE SESSION

At 5:18 p.m., the session was resumed with the Honorable Leticia R. Shahani, President Pro Tempore, presiding.

The President Pro Tempore: The session is resumed.

The Majority Leader.

BILL ON SECOND READING
Senate Bill No. 1630 - Vat Refinements
(Continuation)

Senator Romulo: Madam President, I move that we resume consideration of Senate Bill No. 1630.

The President Pro Tempore: Resumption of consideration of Senate Bill No. 1630 is now in order.

Senator Romulo: We are in the period of interpellations, Madam President. I ask that the Chairman of the Committee on Ways and Means, Senator Herrera, be recognized with Senator Maceda for the continuation of his interpellation.

The President Pro Tempore: Senators Herrera and Maceda are recognized.

Senator Herrera: Thank you, Madam President.

Yesterday, in the course of the interpellation by the Gentleman from Laguna and Manila, he asked the Sponsor to provide him the laws covering barter trade. We have right now the various Republic Acts and Executive Orders which we are glad to furnish the Gentleman.

The other request is the industry contribution to the collection of revenues under the present VAT. We have also the industry distribution. I would like to turn these over to the good Senator from Laguna and Manila.

Senator Maceda: Thank you, Madam President.

Senator Herrera: We also have an additional actual collection by sector from 1989 to 1991. I will provide the Gentleman from Laguna and Manila a copy later.

For purposes of this debate, may I just mention here the actual collection by sector. In the case of the manufacturing sector, it contributes 65.43 percent; construction, 3.05 percent; wholesale, retail trade, 18.83 percent; storage and warehousing,

0.50 percent; business services, 11.58 percent; community personal and household services, .13 percent. The other part of the collection is a result of fines and penalties which is estimated to be .49 percent.

Senator Maceda: Madam President, may I just clarify. In the document that the Gentleman gave me — top VAT contributors by industry, 1992 — those that are crossed out with pencil, are these not included?

Senator Herrera: I suppose so. I am sorry I do not have a copy. That is the only copy that I have, Madam President.

SUSPENSION OF THE SESSION

May we have a one-minute suspension of the session, Madam President.

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

It was 5:23 p.m.

RESUMPTION OF THE SESSION

At 5:24 p.m., the session was resumed.

The President Pro Tempore: The session is resumed.

Senator Maceda: Madam President, the value-added tax, according to this book of Nolloedo, has taken the place of the original sales tax, the subsequent sales or turnover tax, the percentage tax on certain milled agricultural products, and the tax on natural resources. I do not know if that is correct. I guess that is the proper question to ask.

May we know what of the previous taxes on goods and services have been superseded by the value-added tax?

I suppose, for sure, the original sales tax and the turnover tax have been superseded. But may we know, as a matter of accuracy, whether other taxes have been superseded?

Senator Herrera: The Gentleman is correct, Madam President. Several taxes were superseded by the VAT. In fact, he has just mentioned some of them, including, of course, the manufacturers' sales tax, compensating tax, advance sales tax on imports, and contractor's tax. If I am not mistaken, there are about 19 taxes that were superseded. That is why one of the major characteristics of the VAT is that it simplifies our tax system.

What I intend to do is, I will have the STRO identify all the tax measures which were replaced by VAT depending on the category, because it replaces tax measures on particular goods and services. Some of these taxes were repealed because they were beyond the threshold of P200,000. We will furnish the Members of this Chamber, if I am not mistaken, about 19 tax laws which were superseded by the VAT.

Senator Maceda: I thank the Gentleman for that and I will wait for it. As we spend more years in this Chamber and especially with regard to tax measures — I refer principally now to the period before the Gentleman's chairmanship because he just assumed about a year and a half ago — the problem is, tax measures are such a complicated and difficult subject. But oftentimes, simply on the request, if not pressure from the Executive Department — principally from the President — we have not really discussed and debated in-depth these measures. So that it may even be unfair to blame the BIR, for example, why they are collecting only P32 billion out of an estimated P63.8 billion, because, really, they may be correct that we came out with a defective law.

Certainly, that is the process that we are trying to improve at this time. Even this humble Representation is still catching up on this particular tax which should have been done way back. That is why I am asking these questions.

Senator Herrera: I agree with the distinguished Gentleman. In fact, a task force has been created to review the entire tax system, that after a few months, hopefully, we will have a comprehensive restructuring of our tax system.

The Gentleman is correct that even in this particular law, it needs refinement really that is why we have this bill. We will find that under this existing law, to a certain degree, it is regressive in the sense that we are exempting some of the services which are usually hired by the middle and upper class. They are not taxed in the use of these particular services, which is a major flaw in this existing law.

That is the reason we, as much as possible, expand or cover all goods and services and exempt only those with very good justification from the coverage. A good example of this is the services of doctors, because these are basic services. Once we impose a VAT in the medical service, the tendency is for these doctors to pass it on to the patients who are normally poor.

Senator Maceda: Madam President, if the Gentleman will bear with me, I have a specific point in mind. Before the VAT, the sales tax, according to this book, was, in effect, a single stage value-added tax computed and imposed only on the original

sellers such as manufacturers, producers, and importers. That is clear. Now, the VAT which we have today is a tax imposed on each sale of goods or services, not only on the original one but at every stage beginning not only with the original production but at every stage of distribution and marketing process and finally culminating in the final stage, which is the sale to the final consumer or end user.

Having said that, a US Treasury Department article called "Tax Simplification for Fairness, Simplicity and Economic Growth" is quoted:

An important characteristic of a value-added tax is that the tax is applied only to the value added by the firm, that is, to the excess of its sales over its purchases of goods from other business firms. A value-added tax is usually collected by the tax credit method. Each firm applies the tax rate to its taxable sales but is allowed a credit for value-added tax paid on its purchases of goods and services for business use including the tax paid on purchases of capital equipment under a consumption type value-added tax. As a result, the only tax for which no credit would be allowed would be that collected on sales made to households or to the final consumer.

The point I am trying to bring, Madam President, is, I get the feedback that the reason we are not collecting so much is not that we have a very narrow base and therefore we should expand the base. It is not that we have too many exemptions and, therefore we should reduce the exemptions, but that there has been again evasion in reporting the different costs and deductions at every stage of the process.

I am wondering whether in this tax refinement bill, the focus should be more on the administrative process of the VAT declared by every intermediate distributor, processor, wholesaler or retailer. If at every stage, there is a certain amount of misdeclaration because of the lack of computerization and inefficiency of the BIR — while we can check it technically by going back to the original producer or manufacturer, but it is such a laborious process — I suspect that the reason for the low collection is in this area rather than in the area of what is covered and what is exempted.

Senator Herrera: Definitely, what the Gentleman has pointed out is one of the major reasons why there is a shortfall in the collection of the expected potential revenue under the bill.

The reforms that the Committee would like to institute would be both on the expansion of the tax base and on the administrative aspect.

One major advantage of the VAT is that we can establish an audit trail because the VAT-registered person will really have to issue receipts before there will be crediting, as the Gentleman has pointed out that there will be credit and refund.

The other point I would like to stress is that, before the entry of VAT, the various stages in the manufacture or production of goods are subjected to several forms of taxes. With VAT, these have been simplified because, as the Gentleman correctly pointed out, this is the only tax that is being imposed although there will be crediting.

The most important aspect in the implementation is that the BIR must have to see to it that receipts are being issued. Once we have the receipts, we can already establish what we call the audit trail, thereby simplifying the enforcement and, at the same time, avoiding leakages in the collection.

Senator Maceda: With the Gentleman's concession that that could be a major cause for the low VAT collections, he is saying that that is not being remedied in this bill, but still awaiting further studies by the Committee on how to deal with that particular problem.

Senator Herrera: In fact, I would like to point out that even in this bill, I think it is important that some measures must have to be integrated in order to strengthen the enforcement.

I agree with the Gentleman. That is why in the Sponsorship Speech, I identified some of these problems which I call the major gaps in the implementation of the proposed VAT refinement — the lack of a comprehensive tax rule, inefficiencies in auditing, the lack of sustained effort in enforcing the requirement to issue receipts which, to me, is very important, and the delay in the processing of the tax credits and refunds, not to mention the flip-flopping in the interpretation of the VAT. So these are the factors that contributed to it.

I mentioned earlier about the comprehensive tax reform that is now being prepared. The result of that comprehensive tax reform will be the elimination of some taxes and the reduction of some tax rates in order to encourage people to pay taxes. The idea is focused on that, Madam President.

Senator Maceda: That is a very good idea, Madam President. Probably, the better part of discretion is, why do we not shelve all of these measures until the Department of Finance has come out with its tax reforms so we will be able to make heads or tails of the situation? We may be doing something which the tax reform of Secretary de Ocampo — who we are going to confirm tomorrow — may come out with a finding that the legislation we passed should be revoked and should not have been amended.

Is it not a better part of discretion that with this announced tax reform, a comprehensive tax reform be undertaken by Secretary de Ocampo and the Department of Finance? Let us suspend all these measures in the meantime and wait for those tax reforms.

Senator Herrera: On the other hand, Madam President, the refinement of the VAT is a component of that reform because of the very comprehensive nature of the tax base of VAT, and those taxes which, as the Gentleman mentioned earlier, as a result of the implementation of the VAT, are being relegated if not superseded by this. This refinement now of the VAT is a part of the proposed tax reform. This will be a major source of income, and we can afford to eliminate other tax measures as a result of the refinement of the VAT.

What I am trying to convey is that as soon as we can put in place a comprehensive VAT, then the other taxes can be abolished, Madam President.

Senator Maceda: Madam President, since the distinguished Senator is not willing to wait for that — and I cannot force him to do so — I therefore ask that we wait for a quorum to be present in the Hall before we continue our discussions.

SUSPENSION OF THE SESSION

I therefore ask for a one-minute suspension of the session.

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

It was 5:42 p.m.

RESUMPTION OF THE SESSION

At 5:45 p.m., the session was resumed with Senator Orlando S. Mercado, presiding.

The Presiding Officer [Senator Mercado]: The session is resumed.

Senator Maceda: Mr. President, I am not yet through, but I would be very happy in the meantime to yield the Floor to the Senate President Pro Tempore for her interpellations.

The Presiding Officer [Senator Mercado]: The Chair recognizes Senator Shahani.

Senator Shahani: Thank you, Mr. President. I would like to thank Senator Maceda for giving me part of the time which belongs to him.

Mr. President, I wonder whether the Chairman of the Committee on Ways and Means would like to entertain a few questions from this Representation.

Senator Herrera: Willingly, Mr. President, to the Lady Senator from Pangasinan which is now the center of the Philippines.

Senator Shahani: Well, maybe one day it will be Cebu, Mr. President.

Senator Herrera: I am praying for that day to come.

Senator Shahani: Mr. President, VAT has been a topic of discussion for some time now. It started with the Aquino Administration. During its implementation in 1988, VAT was expected to generate P15.8 billion in revenues. However, there was a shortfall in that collection if the Gentleman will recall. One of the reasons for that shortfall was, it was said, due to the short lead time for information on VAT to be spread and introduced to both producers and consumers.

Taiwan, for instance, had a lead time of more than three years, Korea had six years, and China had 17 years. The Philippines at that time only had one-and-a-half years.

Now, Mr. President, we are again refining the VAT by broadening its base. But we really have had very little time in explaining this refinement.

Does the Gentleman think, if this bill is signed into law, we shall again have the same difficulty, the same complexity in implementing the VAT because of the short lead time we will have in its dissemination in terms of information for both the producers and the consumers?

Senator Herrera: Adopting or approving this particular bill once this becomes a law will really enhance the efficiency in the enforcement of VAT.

The present problem of the existing VAT is that there are several exemptions. As a result of that, it weakens the administration of the VAT since the idea of establishing audit trail cannot be possible when we have several exemptions.

Let me be very specific on this. In the case, for instance, of hotels which are not covered by VAT, how can we now determine whether the suppliers of the goods and services to the hotels are really paying VAT since they are not covered by the VAT? Many of these are not issuing receipts which is very important — in fact, indispensable — in the enforcement of VAT. Now, by expanding the tax base covering almost all goods

and services, as I said, it will improve the enforcement of VAT and hopefully, everybody will be complying with the law since we will be establishing audit trail.

This is a very important characteristic of the VAT.

Senator Shahani: How does the distinguished Gentleman expect to make this information drive effective, Mr. President? Because, as I said, there is not much time and I think the public must know that the VAT has been refined, that for practically every service, there is a value-added tax.

Does the Gentleman not think that there has to be a big public information program?

Senator Herrera: I agree with the Lady Senator, Mr. President. It is not just on the enforcement of taxes but in almost all programs of the Government. One of the major factors that would contribute to the failure or partial success is the lack of information.

So, it is important that we really have to support the BIR in the information campaign.

Senator Shahani: Mr. President, one of the difficulties in studying this bill is that — and I would like to pay tribute to our hardworking Committee Chairman, Senator Herrera — it was hard to follow this bill because there are quite a number of exemptions. And then they felt the pressure of the actors, the athletes, et cetera. Then we have again the exemptions granted to the medical, dental, the hospital, and veterinary services.

May we know, Mr. President, what standards or what guidelines is the Gentleman using in deciding which services would be exempted?

Senator Herrera: First, in the case of the doctors and dentists, they are exempted from the VAT because they are dealing with basic services. The character of VAT is that it is a tax on consumption, so that the end users are the ones, in effect, paying that.

Patients, who are mostly poor people, will have to pay for that. That is the reason why we are exempting the doctors and dentists from the VAT.

Second, in the case of educational institutions, Mr. President — this is a very important service — as much as possible, we should not burden this particular service because it might, in a way, also affect the program of providing people easy access to education.

Third, in the case of farmers, those services that help our farmers improve the productivity of their farms should be exempted, Mr. President. In fact, it is not only the services for this particular sector but also certain goods, like fertilizers, are being exempted.

Fourth is the income or product of farmers in their original state. Palay, for instance, when they sell this to the millers, should be exempted because we would like our tax system to be progressive. It is very important for people to realize that, after all, the Government is seeing to it that our tax measures will not be a burden, especially to a great mass of people like the farmers.

These are the criteria, Mr. President, that we considered in the identification of goods and services which should fall under the exemption. But as I have pointed out earlier during the interpellation of the Senator from Laguna and Manila, we really have to identify and make sure that we have very limited exemption because that is a very important ingredient to make the VAT successful in its enforcement. That as much as possible, it is comprehensive; it would cover almost all goods and services.

Senator Shahani: Thank you, Mr. President. I think I can understand the exemption, as the Sponsor says, of teachers and doctors because they deliver basic services to the people. But now, we have the actors and the athletes also asking for exemptions. What do we do in this regard?

Senator Herrera: This bill proposes to withdraw some exemptions, Mr. President. Because if one looks at the contribution of services to our gross domestic products, one will find that is about 44 percent. Now, if we exempt them, we are practically giving them opportunity to avoid being an important contributor to the revenues of the Government. As I said, this sector contributes about 44 percent. This is a very big potential for revenue source of our Government.

So, under this bill, Mr. President, we are withdrawing the exemptions from the VAT of professionals, including actors and actresses. Certain incentives would be provided to industries which will also be part of those that will be withdrawn in order that they can be covered under the VAT.

Senator Shahani: How about the athletes, Mr. President, because we have received a petition from the Philippine Sports Commission. May we know the Gentleman's position on this, Mr. President?

Senator Herrera: The professional athletes, Mr. President, should be covered under the VAT. There are certain

exemptions as a result of some international agreements. What I understand is that sales of goods for sports — but this is a specific activity — are exempted. But the request of the sports associations to exempt professional athletes, I think, lacks justification.

In the first place, many of them are highly paid, especially those imported athletes, just like the actors and actresses. We made a study on that. We found out that an average actor or actress — it means not the very popular ones — earns no less than P1 million, while the popular actors and actresses earn about P8 million.

What we intend to do, Mr. President, is to increase the threshold or the cutoff income in order that we can also do justice to those professionals. For instance, the P200,000 threshold was established in 1988, and from 1988 up to the present, the purchasing power of the peso has been eroded. I think it is only equitable and fair that we should raise the threshold.

And I intend, during the period of amendments, to increase this from P200,000 to about P350,000. So that if one is a professional, an actor or an actress or entertainer earning only P350,000 or less, he/she will not be covered by the VAT. But even with that increase, Mr. President, the revenue potential is still a very big amount.

Senator Shahani: In terms of the athletes, Mr. President, are we therefore making a distinction between the amateur athletes who are exempted and the professional athletes who are not? May we have a clarification on that?

Senator Herrera: Yes, Mr. President. We will be drawing a distinction.

Senator Shahani: May we know what is the rationale for including the sale and leasing of real properties under the VAT?

Senator Herrera: Mr. President, one of the very profitable industries in the country today is real estate development. The revenue potential of this sector is about P750 million. Right now, they are exempted from the coverage of VAT. The Committee strongly believes that they have to be covered, but we will see to it that the threshold of P10,000 again in the case of rental in urban centers should be reviewed.

I intend to propose a Committee amendment that rentals in urban centers be raised to P15,000 because, in our investigation, we found out that in the case of Metro Manila, the rental of apartments is quite expensive. Maybe, the amount of P10,000 outside of urban centers is already a big amount and those who are in this business should be covered by VAT.

Senator Shahani: I see that the real estate industry has also submitted a position paper asking for exemption. I am afraid that we will be receiving several requests of this kind.

Senator Herrera: Mr. President, I recall that during the campaign against the oil levy, when I was then the Chairman of the KRB, I was invited by one business group here in Metro Manila and all of them were clamoring for the enactment of tax measures to support the Administration, and all the tax measures submitted by the Administration to Congress.

When we started talking — and I indicated that it is a good idea that we really have to enact many of these tax measures in order to replenish what we will lose from the potential revenue of the oil levy — they also started asking for exemption. So I told them that the problem with the business sector is that they are very noisy in clamoring for the enactment of tax measures in order to fund our development program, but they are also asking that they be exempted from the coverage of all these tax measures.

I guess, Mr. President, it is about time we asserted our political will, that those who ought to pay taxes should pay taxes.

Senator Shahani: Mr. President, the challenge before us is to make this bill a comprehensive one.

Senator Herrera: Precisely. Otherwise, Mr. President, if we will start granting exemptions under this bill, then it defeats its purpose and the VAT will be a failure in this country. This is something that we cannot afford, Mr. President.

The VAT is not new. This is enforced in 60 countries, and in all these countries the VAT is a major source of revenue for the government. In fact, this is not just a major source. In many countries, it even gives more revenues to the government than direct taxes.

If we will have the VAT, it will help simplify our tax system. This is also one way of seeing to it that everybody pays their taxes because of the audit trail that will be established once we have a comprehensive VAT.

Senator Shahani: Yes, Mr. President, I agree. And our Chairman should be congratulated for really broadening the base of VAT and making the amount to be collected much bigger than what would have been possible under the House version.

May I know whether he is sure that under this comprehensive VAT bill, we have really included all of the groups which are supposed to be included? Because to again amend this at another time would be a very long process. There will be

pressure from many groups who want to be exempted from this VAT bill.

How does our Chairman feel about the comprehensiveness of this bill at the moment?

Senator Herrera: What the Chairman feels, Mr. President, is that this would be the last time that we really have to amend this bill. Let us make it as comprehensive as possible, and what we need is the support of this Chamber. This is one opportunity that we cannot afford to miss. We really have to provide the necessary financial support to all our economic programs. The unemployed cannot wait any longer in order to get employment. We have to see to it that all the infrastructure projects needed for an economic takeoff of our country will be put in place.

It is very important, Mr. President, that we assert our economic independence. What I am trying to convey here is that the sooner we can have the IMF exit program, the better for this country. This Representation is convinced that if we will be able to approve this particular bill, the Senate version in particular, the IMF exit program can be accelerated.

Senator Shahani: Thank you, Mr. President. May we go now to the matter of hotels and motels. We will recall that under the National Internal Revenue Code, hotels and motels are subject to a percentage tax of 12 percent of their gross receipts derived from room occupancy. This section will be repealed by this bill we are now considering. So that Section 4, on page 11 of the bill, reads:

SEC. 102. *Value-added tax on sale of services.* —

(a) Rate and base of tax. - There shall be levied, assessed, and collected, a value-added tax equivalent to 10 % of gross receipts derived FROM THE SALE OR EXCHANGE OF SERVICES, INCLUDING THE USE OR LEASE OF PROPERTIES.

Would this amendment not result in the reduction of the tax collection on hotels and motels, considering that the rate of the tax decreased by 2 percent and the base of the tax remains at gross receipts?

Senator Herrera: That is correct, Mr. President. In fact, that is precisely the point that I was stressing during the interpellation yesterday, that this is more of a tax reform rather than purely revenue measure. We would like to have a structural reforms through this bill so that the implementation of this particular measure will not necessarily raise the burden or the tax contribution to a particular sector.

One good example is the hotels. In fact, if we will also

consider the case, for instance, of restaurants and caterers, we will find it so complicated. The implementation of the present tax system is so chaotic. If we eat in a restaurant, we only pay 4 percent. If we bring the food outside, we pay 8 percent. This is a very ridiculous and a very chaotic approach. With this, we will only have one structure and that is the VAT.

Senator Shahani: Mr. President, this is an important tax measure. We shall be having new classes of taxpayers. But does this mean that our fight for better tax administration should be lessened? Will this Chamber continue to stress the need for better tax collection, better enforcement, et cetera?

Senator Herrera: On the other hand, I think, as we institute structural reforms in our tax system, we should see to it that the Government agencies responsible for the enforcement of the laws must also do their duty faithfully so that our tax laws can be enforced and better appreciated by our people, especially if all those who are supposed to pay taxes are really paying, and that the Government must also be prudent in the utilization of the revenues collected from our people.

That is why I emphasized during the Gentle Lady's earlier question that we should not miss this opportunity because we have clearly identified the programs that we intend to embark on in order to make sure that we will be ranked among the developed countries in this part of the world. And we have to provide the revenues needed by our Government to implement all these infrastructures, all these growth programs of our Government, Mr. President.

Senator Shahani: Mr. President, this is, indeed, an important bill, and I hope that we will be able to pass it in this Chamber before the recess begins.

I am informed that many of our neighbors in the region depend a lot on their VAT collections; in fact, this country is perhaps one of those countries which collect the least from their value-added tax.

I hope that with the passage of this bill, as our distinguished Chairman says, we will be able to help ourselves on the road to progress.

Thank you very much, Mr. President, and thank you, Senator Herrera.

Senator Herrera: Thank you, Madam Senator.

The Presiding Officer [Senator Mercado]: Are there any other interpellations?

Senator Herrera: I think Senator Maceda would like to continue his interpellations, Mr. President.

SUSPENSION OF THE SESSION

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

It was 6:12 p.m.

RESUMPTION OF THE SESSION

At 6:16 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]: The session is resumed.

Senator Maceda: Mr. President.

The Presiding Officer [Senator Mercado]: Senator Maceda is recognized.

QUESTION OF QUORUM

Senator Maceda: Mr. President, I raise the question of quorum.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a suspension of the session so we can ask our Colleagues to come here.

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

It was 6:16 p.m.

RESUMPTION OF THE SESSION

At 6:20 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]: The session is resumed.

Senator Maceda is recognized.

Senator Maceda: Mr. President, I withdraw the question of quorum.

The Presiding Officer [Senator Mercado]: The Majority Leader.

Senator Romulo: Mr. President, Senator Maceda has made a reservation to continue his interpellations later on. In the meantime, I ask that the distinguished Minority Leader, Senator Tañada, be recognized to interpellate.

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

Senator Tañada: Thank you, Mr. President.

Will the distinguished Sponsor yield for some clarificatory questions?

Senator Herrera: Gladly, Mr. President, to the next Congressman of the Fourth District of Quezon Province.

Mr. President, before the Gentleman from Quezon asks questions, may I just put into the record that during the questioning of the Senator from Laguna and Manila, I promised to provide him with the list of taxes which are replaced by the VAT.

I would like to inform the Body that we have now the list of taxes and I would like to reflect this into the *Record*.

1. Privilege taxes on persons subject to the percentage tax; persons not subject to the percentage tax; and 56 categories of other fixed taxes.

2. Percentage taxes on goods as follows: tax on original sales; tax on subsequent sales; advanced sales tax; compensating tax; miller's tax; and forest charges.

3. Percentage taxes on services as follows: contractor's tax; broker's tax; tax on lessors of personal property.

We have also the list of the amount involved, and I would like to furnish the Gentleman from Laguna and Manila with a copy of this list of taxes which are replaced by the VAT.

Thank you, Mr. President.

Senator Tañada: Mr. President, the distinguished Sponsor, in his Sponsorship Speech of this measure, made mention that the VAT collection in France reached a high of 11.31 percent of GDP. May we request the distinguished Sponsor to provide us with a copy of the VAT laws of France, including the implementing rules, if any, so we could look at the provisions for possible adoption into our system.

Senator Herrera: We shall do so, Mr. President. Tomorrow, we will provide the Gentleman from Quezon with a copy of this VAT law, together with the study as implemented in

France.

Senator Tañada: I just hope they are in English so we will be able to read them.

Senator Herrera: I suppose so. I am sure that the Department of Finance does not have a single staff who can understand French.

Senator Tañada: Mr. President, according to the distinguished Sponsor, the potential revenue collection from VAT for 1992 was estimated at P63.78 billion or 8.9 percent of GDP. May we know whether a study has been made to find out whether there is a correlation between per capita GNP and the percentage to GDP of VAT collections?

Senator Herrera: I would like to believe, Mr. President, that there is a study made by our Department of Finance on this. I will check on this and if there is such a study, I will furnish all the Members of this Chamber with copies of the study.

Senator Tañada: What about the percentage of VAT collection in relation to personal disposable income, Mr. President?

SUSPENSION OF THE SESSION

Senator Herrera: May we have a one-minute suspension of the session, Mr. President?

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

It was 6:26 p.m.

RESUMPTION OF THE SESSION

At 6:26 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]: The session is resumed.

Senator Herrera: Mr. President, I have been informed by the Department of Finance Assistant Secretary Guevarra that there is such a study which states that VAT collection is about 3 percent of personal disposable income.

Senator Tañada: We are asking this, Mr. President, because it may well be that the low VAT collection we have been experiencing in the Philippines is the result of low per capita GNP or low personal disposable income. We are theorizing that this is happening — the low percentage of VAT collection —

because the greater mass of the working class or the lower-income groups do not purchase the goods subject to VAT or a large percentage of the personal disposable income of the low-income group is spent on food products which are VAT-exempt under paragraph (b), Section 103 of the National Internal Revenue Code.

We are also theorizing that, perhaps, the poor mostly make their purchases of items that are subject to VAT from small businessmen whose annual gross sales are within the range of P100,000 to P500,000, which sales are therefore VAT-exempt under Section 103 of the National Internal Revenue Code.

Senator Herrera: I think we cannot disagree with the theory that it might be possible that one of the factors that contribute to the low collection of VAT or the shortfall that we have been experiencing since 1988 up to the present is due to the low level of disposable income. But this does not mean that it is only the exclusive contributory factor. There are several factors; and that includes the inefficiency of tax enforcement. At the same time, there are also so many exemptions, Mr. President.

Based on the studies we made on the coverage of the VAT in 60 countries, these countries have a more comprehensive coverage of the VAT.

We also have to consider that many of the consumption of the rich, who control 40 percent of income, are exempt from leases on real property and services paid on professionals. That is why I pointed out earlier, during the questioning of the Lady Senator from Pangasinan, that services contributed about 44 percent to our GDP. Many of these services are exempted and are usually paid or hired by the rich and the middle class.

While it may be true that at the lower level of our society — I am referring to the working people — there is not much that we can derive from the VAT because of a very small disposable income, there is this particular expenditure by a segment of our economy that is exempt from the coverage of VAT. That is now the focus or the target of this VAT refinement. We propose that this particular expenditure by certain sectors of our economy — the middle and the upper levels — be covered by the VAT.

Senator Tañada: I am glad to hear that, Mr. President. But, at the same time, I still cannot but be concerned about the impact that the expanded VAT or the refined VAT would have on the poor or the lower-income group.

May we know, Mr. President, if any study has been made as to the impact of the expanded VAT or the refined VAT, as we are now proposing, on the lower income group?

Senator Herrera: Mr. President, first of all, let me

emphasize that those goods and services, which will be paid or availed of by the poor people, will continue to enjoy the exemption. We propose that in the case, for instance, of agricultural products, such as rice sold to the millers, these should be exempted when these are traded in their original...Because we know that the farmers will be affected by this.

The other point that I would like to stress here, Mr. President, is, we would not only want to maintain the threshold but also to increase the level of threshold, bearing in mind that 85 percent of the consumption expenditures of the poor are food, and these are exempted.

The expected revenue to be generated by the VAT expansion and refinement will certainly benefit the poor in the sense that it will finance our economic development program and, hopefully, will generate employment opportunity and improve social services.

We have also data here, Mr. President, on the burden of the indirect taxes on different households based on 1992 figures. We will furnish the distinguished Gentleman with a copy of these data. He will find that the distribution will certainly not hit the poor people. He can study these data and, hopefully, these might satisfy his questions on this matter.

Senator Tañada: So, as far as food is concerned, Mr. President, the Sponsor does not see that with the expanded VAT — with the restructuring of the VAT that we are proposing in this measure — the price of food will not rise.

Senator Herrera: It will not be affected, Mr. President.

Senator Tañada: How about the clothes? How about other items like slippers? How about medicine? How about medical and dental services?

Senator Herrera: Medical and dental services are exempted, Mr. President. The poor people usually buy goods which are also affordable to them, and these are the inexpensive goods possibly manufactured by small-time manufacturers whose income is within the threshold of the one that is exempted. That is why we thought that we should also raise that level.

Senator Tañada: The Sponsor said that medical and dental services provided by doctors and dentists would not be covered. Would they be exempted by this expanded VAT?

Senator Herrera: Yes, Mr. President.

Senator Tañada: Would the price for admission to the

movies our people watch not be affected by this restructured VAT?

Senator Herrera: The admission fees are covered by amusement tax and not by the VAT, Mr. President.

Senator Tañada: So, there will be no additional tax or there will be no increase that will be brought about by the passage of this measure?

Senator Herrera: I do not see any possibility that it will result in that. First, the category of income of the moviegoers has a very strong influence in the pricing of tickets. That is why we will find that prices of movie tickets are very reasonable — affordable to the moviegoers.

Mr. President, the next project of the Committee is to look into the implementation of the amusement tax. The initial information that I have received is that there seems to be an incorrect implementation of this, thereby depriving the movie producers and theater goers of certain income which they, in effect, pass on to the moviegoers. But we will look into that. We are now making a study on that.

I have received this information when the movie producers approached this Representation asking for an exemption from the VAT coverage. I have been informed by the STRO and the Finance people that the present problem affecting the producers is the wrong interpretation of the amusement tax which resulted in a higher cost.

Senator Tañada: How about the prices of softdrinks, beer and gin, would these not be affected by the passage of this expanded VAT?

Senator Herrera: Right now, they are already covered by the VAT and the excise tax.

Senator Tañada: But with this expanded VAT, will that bring about an increase?

Senator Herrera: I do not think so, Mr. President, because we are not increasing the rate. We are merely expanding the tax base. The rate will continue to remain as it is now.

Senator Tañada: Would the Gentleman say that with the passage of the VAT in 1988, our tax structure has become more regressive or it has become less regressive and, therefore, more progressive?

Senator Herrera: The introduction of VAT into our country is a great disappointment, I would say, although it is a

very important reform. Probably, for lack of political will and the "tayo-tayo" system of the influential sectors, we have a defective VAT in the sense that there are so many exemptions. The benefits that could have been derived by the Government, not just on the matter of collecting revenues under the VAT but in seeing to it that there will be equity, are defeated. That is the reason why there is really a need to refine the VAT system.

A good example of this, as I pointed out earlier, are hotels. They are not covered. Under the present system, it is very difficult to really establish an audit trail for the suppliers of goods and services to the hotels because they are not part of the VAT coverage. The idea of establishing audit trail on goods and services and people registered under the VAT is weakened because of this. That is why one of the important dimensions of this VAT refinement bill is to see to it that it will be very restrictive in the exemptions. Only those basic goods and services, as much as possible, should be exempted.

Senator Tañada: From the Gentleman's answer, it would seem that the passage of this VAT in 1988 made our tax restructure more regressive. Would that not be a correct statement to make based on the answer which the Gentleman gave?

Senator Herrera: In one sense, it is not, because the data of 1988 show that we failed to collect what the VAT is supposed to replace — the collection of P13.7 billion as against the amount that was collected under the previous tax measures.

In another sense, yes, because we have the affluent who are paying, as I said, certain services and goods which are exempted. In that way, if we will not correct that, the element of regressivity will remain.

Senator Tañada: Precisely, and the proposed measure seeks to correct that.

Senator Herrera: Yes. That is precisely the thrust of this bill, Mr. President.

Senator Tañada: I have been referred to a study made by Rosario Mananzan of PIDS, Mr. President, which shows that the tax burden after the approval of VAT is borne more by the lower-income groups. There is a heavier burden on the lower-income groups.

It appears in this study that the effective tax rates for the poorest 10 percent before the implementation of the VAT was 2.907. After the passage of VAT, it went down to 2.512. For the richest 10 percent, Mr. President, before the implementation of the VAT, the effective tax rates were 2.043, and then after VAT,

this went down to 1.840. So, based on these statistics, it would appear really that after the passage of VAT, a heavier burden has been placed on the lower-income groups.

Senator Herrera: What version has been studied or has been the subject of that study by the distinguished Gentleman, Mr. President? May I be provided a copy of that so we can go over it.

Senator Tañada: Yes. I will furnish the distinguished Sponsor with a copy of this study later this evening, Mr. President.

Senator Herrera: Thank you, Mr. President. Because I would like to know what is really the basis for that study.

Senator Tañada: Because of these statistics, Mr. President, there is that thinking that we are, in effect, sacrificing progressivity in exchange for broadening the tax base.

So, the question is being asked: Should there really be a trade-off between the two?

Anyway, I will furnish the distinguished Sponsor with a copy of this study, Mr. President.

Senator Herrera: I would appreciate that, Mr. President. I would like to assure the distinguished Gentleman that the bill intends to correct the inequity prevailing under the present VAT. That is why I have been emphasizing that the revenue aspect of the bill is secondary to the structural change that the bill intends to implement.

Senator Tañada: Moving on to another point, Mr. President, and this would refer to...

Senator Herrera: Mr. President, coming back to that Mananzan study. I got a note here from my staff that Mananzan confirms the need to make refinements in our VAT, because the tax burden on the affluent went down due to exemptions. That is why we would like to withdraw these exemptions.

Anyway, Mr. President, I would appreciate it very much if I could have a copy of that. It is very unfortunate that I was not able to go over or read that study.

Senator Tañada: Yes, Mr. President. On page 2, No. 3 of the bill — and this is in relation to paragraph (U) on page 21 — defines "goods or properties" as "all tangible objects which are capable of pecuniary estimation." The same No. 3, page 2, likewise defines "tangible objects" to include commodities, products, raw materials, machinery, buildings and other objects

which have tangible form.

On the other hand, Mr. President, we have as among the proposed transactions exempt from the Value-Added Tax that stated in paragraph (U) on page 21, which states: "Sale of agricultural land not exceeding one million pesos (P1,000,000.00) of real property utilized for socialized housing."

Now, may we know, Mr. President, whether the word "properties" as defined in No. 3, page 2, includes the sale by realty companies of all kinds of properties, like lands whether residential or otherwise, condominiums, factory buildings, and the like?

Senator Herrera: Mr. President, what is exempted here is the sale of real property by one who is not engaged in real estate business. It means that if one's business is in real estate, he is engaged in the selling of properties, then he is covered. But if one is an owner of a particular property and he would like to sell his property, he is not covered. He is exempted because that is not his regular business.

Senator Tañada: May we also be informed whether the exemption under paragraph (U), page 21, covers the sale of low-cost housing?

Senator Herrera: Yes, Mr. President. Real property utilized for socialized housing is also exempted.

Senator Tañada: Even if it is being undertaken by a realty company?

Senator Herrera: Yes. The idea here, Mr. President, is, basically, VAT is a tax on consumption and the end user will have to pay that. Since this is a socialized housing, it is important that the end users, who are ordinary earners, be exempted from paying the cost of the VAT.

Senator Tañada: Thank you. Now, under Article 157 of EO No. 209, which is the Family Code of the Philippines, the constitution of a family home is encouraged. And it states there that this should not exceed P300,000 in urban areas and P200,000 in value in rural areas.

May we know, Mr. President, whether the exemption proposed under paragraph (U), page 21 of the bill, would include properties bought to be constituted as a family home?

Senator Herrera: I think this particular provision should be reconciled with that provision, Mr. President. The costs involved — which is P300,000 for urban family home and P200,000 outside the urban center — are basically the cost also

of socialized housing.

I do not see any conflict between these two provisions, Mr. President. If there is any conflict, it must always be resolved in favor of the beneficiary, the end user; the poor people who should not be absorbing the added burden of any tax measure.

Senator Tañada: Thank you, Mr. President. I still have a number of questions, but I have just been informed that the Senate President Pro Tempore is about to sponsor another measure. So, I would have no objection to continuing my interpellation tomorrow.

Senator Herrera: It is all right with me, Mr. President.

SUSPENSION OF THE SESSION

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

It was 6:57 p.m.

RESUMPTION OF THE SESSION

At 6:59 p.m., the session was resumed.

The Presiding Officer [Senator Mercado]: The session is resumed.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1630

Senator Romulo: Mr. President, in the meantime, I move that we suspend consideration of the VAT refinements bill.

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

RESOLUTION ON SECOND READING Senate Resolution No. 796 - Guidelines for Conversion of State Colleges or State Universities for the Committee on Education, Arts and Culture

Senator Romulo: Mr. President, I move that we resume consideration of proposed Senate Resolution No. 796 on Second Reading.

Mr. President, this bill has been sponsored and the interpellations have been made. In fact, we closed the period of interpellations on March 17, 1994.

institutions, but who, nevertheless, I am sure, in an appropriate way will be able to help us guard the national interest.

With these reservations, Mr. President, I vote *Yes*.

MANIFESTATION OF SENATOR ROMULO
(Affirmative Vote of Senator Rasul on Senate Bill No. 397)

Senator Romulo: Mr. President, may I just manifest, upon request of Senator Rasul, that she is voting *Yes* on Senate Bill No. 397, Amendment to the Omnibus Investments Code, as well as on Senate Bill No. 1127, the Stocks Transaction Tax.

The President: Let it be noted.

Senator Coseteng: Mr. President.

The President: Senator Coseteng is recognized.

Senator Coseteng: May I know how my vote was recorded Mr. President?

The President: It is in the negative.

Senator Coseteng: Just a brief explanation of my vote, Mr. President.

EXPLANATION OF VOTE OF SENATOR COSETENG

Mr. President, I find it quite conflicting or inconsistent that we seem to be opening our doors to attract foreign investors when, at the same time, we know for a fact that our domestic capital flight has been increasing and that Filipino businessmen choose to invest abroad. It is Filipino capital that is buying homes in Daly City, New York, London or Switzerland. It is Filipino investments that are going into Thailand, Taiwan, the People's Republic of China, Hong Kong and the other parts of the world; yet, we have not exhausted all efforts to make Filipino capital come back and provide a conducive environment so that our own countrymen's money could come back to serve as a strong capital base.

BILL ON SECOND READING
Senate Bill No. 1630 - VAT Refinements
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 1630 as reported out under Committee Report No. 349.

The President: Resumption of consideration of Senate Bill No. 1630 is now in order.

Senator Romulo: I ask that the distinguished Chairman of the Committee on Ways and Means, Senator Herrera, be recognized. I also ask that the distinguished Gentleman from Manila, Ilocos Sur and Laguna, Senator Maceda, be recognized to continue with his interpellations.

The President: Senator Herrera and Senator Maceda are recognized.

Senator Maceda: Mr. President, going through some articles that were written on the occasion of the effectivity of the original VAT law on January 1, 1988 — referring specifically to the *Lyceum Research Journal* of December 1988 — to summarize, in Korea, the Koreans studied the matter for six years before they implemented their VAT law. In Republic of China, Taiwan, it took the Chinese seven years from 1969 before the VAT was implemented. In Indonesia, they had about three years of study with assistance from a Harvard group. I quote:

The conduct of study on the Philippine VAT was done within a short period of time. A study group in the BIR was formally convened for this purpose in August 1986. Thereafter, the IMF sent a team to study the VAT structure of the country given resource limitations. The effect of VAT on tax burden prices and resource allocation were not studied in detail. The economic ministers deliberated on the findings and a consensus on the VAT structure was arrived at on December 23, 1986.

And to go faster on, after referring to the fact that it took Portugal four years; Greece, six years; and England, three years it states that it is possible that the problem buffeting the initial implementation of VAT in the Philippines could have been minimized had the preparation been more thorough and adequate.

Meaning to say, the Philippines only had about a little over a year. That is precisely the point.

In this particular measure that we are discussing, we must now make haste slowly, so to speak, before we fall into the same mistake all over again.

Having said that, Mr. President, may I go to the...

Senator Herrera: May I just make a short reaction to that, Mr. President?

Senator Maceda: Yes, please.

Senator Herrera: The Gentleman is correct. When this

was being introduced in 1988, there was a short period to make a thorough study. That is precisely the reason we have now this refinement. As a result of that implementation in 1988, there were several flaws found in that particular law. From 1988 up to the present, I think we have already sufficient experience and sufficient studies to support the idea for a VAT refinement bill.

I would like to reiterate that we are refining the present law because of several flaws and some weaknesses found in the existing law, Mr. President.

Senator Maceda: Mr. President, we will not dispute that. However, let us test whether the refinements or amendments have now been sufficiently and properly studied.

Senator Herrera: Let me put it this way, Mr. President. As studies were made, and as I pointed out in the Sponsorship Speech, the main idea behind the amendments is to simplify our tax system and, at the same time, make it broader and more comprehensive so that the regressivity aspect of the implementation of the existing law can be corrected.

Senator Maceda: Thank you, Mr. President. Now, I am just going by this outline in the business section of the *Manila Times* on March 21, and we will just follow this order when it speaks of the Senate version — widen tax base. The first is pesticides.

Mr. President, we have discussed this briefly yesterday. But let me just, for the record, give the Sponsor the definition of pesticides by the Fertilizer and Pesticide Authority.

I should really ask this of the distinguished Sponsor but to speed it up I will do it myself and just ask him to express the official position of the Committee, whether when he speaks of expanding the VAT to cover pesticides, all of those in this definition of the Fertilizer and Pesticide Authority are included. Or he has his own technical definition which is covered under the tax law. And it says:

Pesticides - any substance or product or mixture thereof, including active ingredients, adjuvants and pesticide formulations intended to control, prevent, destroy, repel or mitigate, directly or indirectly, any pests. The term shall be understood to include insecticide, fungicide, bactericide, nematocide, herbicide, molluscicide, ionicide, rodenticide, plant regulator, defoliant, desiccant, and the like.

I recall yesterday that the Sponsor gave me an answer which, if am not mistaken, has a more limited definition of pesticides, Mr. President.

Senator Herrera: What I mentioned yesterday is that of pesticides, herbicides, and chemicals for the formulation of pesticides. Now, we are dealing with technical definition here, Mr. President. I appreciate the Gentleman's calling our attention to some chemical elements which are supposed to be classified under pesticide.

At this juncture, the Senate President relinquished the Chair to Senator Agapito Aquino.

I suppose the other chemicals or components of chemicals which the distinguished Gentleman mentioned are included in the proposed coverage of the VAT, Mr. President.

As I said during the interpellations yesterday, one of the primary considerations is the harmful effects of these chemicals to health and the environment. By including these in the coverage of the VAT, will probably also encourage our pesticide users to resort to some organic pesticides instead.

Also, as I mentioned yesterday, in one farm that I visited, the farm owners use hot chili mixed with water and sprayed on their plants instead of insecticide. According to the farm owners, it is equally effective as the imported insecticide. It does not burden the owners because the hot chili that they are using is also grown in that farm.

Senator Maceda: Mr. President, I do not know. I am not an agricultural expert. But is there such a thing — and will the Sponsor kindly explain it to us — as organic herbicides or organic insecticides or organic fungicides.

Senator Herrera: Mr. President, I suppose there is such a thing as organic fertilizer. Maybe the term that I used might not be the appropriate term. But what I am trying to convey is, the farm owners, instead of using these chemicals, and insecticides which have harmful effects to health, are now using fruits of certain plants, like hot chili, mixed with water. I do not know if they are using tobacco. But what I personally observe is that they use hot chili mixed with water instead. So, this can be a positive consequence.

Senator Maceda: Mr. President, that certainly is very educational to me. Until today, I have not read that.

I do not know if the great Presiding Officer, former Chairman of the Committee on Agriculture, could help us out, with the permission of the Sponsor: Is there any country where organic herbicides, insecticides, fungicides and nematocides are in wide use? Is there such a thing? I am an Ilocano, and so I may be an ignoramus in this kind of subject matter.

Senator Herrera: Another Ilocano also volunteered the information that in their province, they use tobacco, mix this with water and then use this as a spray on crop plants as a substitute for insecticide. In the case of organic fertilizer, this is very common.

The Presiding Officer [Senator Aquino]: Just for the information of the Senator from Manila. Even IRRI is now moving from inorganic to organic fertilizer. They are now recommending organic fertilizers, insecticides, herbicides, et cetera.

Senator Maceda: I know that, Mr. President. I have been to IRRI recently. I have been to Maligaya PhilRice recently. All of these are still in the research stage. Meaning to say, if the idea is to do away with chemical pesticides and all of these, the problem here is that this being an agricultural input, has the Committee studied — assuming that the purpose is to assist in some control of this and a shift to organic fertilizer in the light of environmental problems — the effects of our present production of agricultural products?

Senator Herrera: Mr. President, first of all, the sale or use of pesticide or insecticides is not banned. What we are saying is that since the program now is to encourage what they call “integrated pest management” with less intensive use of pesticides, the inclusion of this under the VAT would certainly make the insecticide and pesticide less competitive compared with the use of what I term — and maybe there is a better term for that — “organic” insecticides or pesticides, using fruits or certain plants by mixing them with water and using them as a spray.

Senator Mercado: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Mercado is recognized.

Senator Mercado: With the permission of the Gentleman on the Floor. Senator Maceda has asked if there is any country that has undertaken a shift from inorganic to organic fertilizers and pesticides. I do remember that when I made my research on the pesticide issue, I came across literature that cites Indonesia as the example. I remember the findings that indicate that after they shifted to organic fertilizers and pesticides, their rice production did not decrease. Their rice production was not adversely affected and they have been able to ensure the productivity of the land. We have been, as we have stressed in the past, too dependent on on chemical fertilizers and pesticides unaware of its long-term environmental degradation. This Indonesia may be a country that we can study closely on this issue.

Senator Maceda: Thank you, Mr. President. But may I clarify one thing. The way the Gentleman used it — I get the drift from his statement, as well as from the Sponsor's — that pesticides and fertilizers are one and the same. Is fertilizer a part of the generic term called “pesticide”?

Senator Herrera: No, Mr. President.

Senator Mercado: No, Mr. President.

Senator Maceda: Exactly. So let us not talk about fertilizers, because what is only covered is pesticides. But if that is going to be the statement, then logically, if we are going to agree to impose VAT on pesticides, are we now also going to impose VAT on fertilizers?

Senator Herrera: No, that is not the intention, Mr. President.

Senator Maceda: Exactly, Mr. President. But if they are on the same plane, why the differentiation?

Senator Herrera: There is a distinction, Mr. President. We are not primed to put them under one category. What is being envisioned by the bill is to include in the coverage the pesticides, herbicides, and chemicals for the formulation of pesticides, but not the fertilizers.

Senator Maceda: Mr. President, the point is, whether it is pesticides or fertilizers, to go to another point, may I read also from the same article:

The special treatment under VAT given to the agricultural sector, one is to forestall any effect of VAT on prices of food and raw materials; the other is recognition that production and distribution in the agricultural sector are carried out by small and unincorporated farmers and traders. The keeping of records is generally not formal.

And I continue:

The special VAT treatment of the agricultural sector is in the form of exemption. Agricultural products, including unprocessed goods, are exempt from VAT in Korea, Republic of China, the Philippines and Indonesia. Certain inputs to agricultural production such as fertilizers and pesticides are also exempt in the ROC and the Philippines.

One problem with respect to the exemption of

agricultural products is the noncredibility of VAT on their inputs to their production.

And if I may continue further to complete this:

Although the agricultural sector has been exempt from VAT in many countries, there are basic problems especially if the exemption is not carried through in all stages in the production and distribution of goods.

I am just trying to point out that imposing the VAT on pesticides and/or fertilizers is not a simple matter; it is not a refinement. We have a consideration of the environment, that is correct. But do we also have a consideration of the effect on food prices? Do we have a consideration of an effect on the costs to the farmer and, therefore, on the income of the farmer?

Any additional tax at this time on pesticides or, just to complete, even fertilizers — which I am glad are not being taxed now or removed from the exemption because I do not see the difference between chemical fertilizers and pesticides — is, in effect, going to be regressive as far as 70 percent of our population, who are farmers, are concerned.

At this point, I am not ready to agree that in the name of refinement or in the name of more revenue, we now impose VAT on pesticides and/or fertilizers. It is established in almost every country, where VAT is adopted, that this is a special sector that should not be subject to VAT.

Senator Herrera: Mr. President, we are not diverting from the intention of the law to give special attention to certain sectors like the farmers or the agricultural sector. That is precisely the reason in the case of fertilizers, seedlings and fingerlings are not covered under the VAT.

I mentioned earlier that one of the reasons why we are including pesticides in the coverage is that the program now is to encourage integrated fish management with less intensive use of pesticide. However, as I indicated to the Gentleman from Manila, Ilocos and Laguna early this afternoon, this is one matter where I have a strong feeling, especially if we have to consider that the cost of pesticide is less than one percent of the total cost of agricultural production.

Senator Maceda: I am glad to hear that, but the point of this exercise, which we will go through in detail, is to make sure that we do not make the same mistake as we did in the original imposition of this law. One additional item to be covered is, in effect, a new law or a new tax imposition as far as that sector of Philippine business or society is concerned. So, let us leave pesticides and go to the next one.

Motels and hotels. Mr. President, I was under the impression that one of our big hopes for economic recovery is the tourism industry. As a matter of fact, we are even spending P150 million to bring the Miss Universe contest to Manila because it is a major concern of the Ramos Administration.

A hotelier I met last night told me, "If you put VAT on hotels, it means to say in effect you are going from a ten plus ten, to a ten plus ten plus ten, which in practice will be, if you have a \$100 room, 10 percent shall be charged and you go up to \$110; then another 10 percent excise tax and local taxes, you go up to plus \$11 which is \$121; and finally another 10 percent VAT, you go up to \$132.10."

Does the Gentleman not think that in our effort to raise some revenue to cover the hotels, we go against the direction that we are trying to encourage tourism? And already part of the observation is that, at least at the level of our 4-star, 5-star and luxury hotels, they are getting to be as expensive as other tourist destinations. The effort preferably is, at least, we should be inexpensive at a time when we are way behind Thailand, behind Hong Kong, behind Singapore, behind Kuala Lumpur, behind Bali and Jakarta, and other parts of Indonesia.

To complete the question, out of this hotel tax, since this is an unidentifiable industry — we have x number of rooms — how much is going to be raised if we put a 10 percent VAT on hotel rooms in this country?

Senator Herrera: On the contrary. Mr. President, by putting hotels under the coverage of the VAT, the Government will lose something like P17 million because it will reduce the tax on hotels. Right now, they are subject to 12 percent tax and this will be replaced by 10 percent VAT. The computation presented by the hotel owner is erroneous.

That is why I keep on emphasizing that the VAT refinements does not necessarily mean an increase or additional tax rate, but it seeks to plug certain loopholes and, at the same time, introduces a structural reform. So that in the case of hotels and motels, the Government will stand to lose P212 million as a result of the new system.

Senator Maceda: With that surprising statement, we have a system here where not all goods and services are subject to VAT. I thought the reason for the VAT was to stabilize our revenue structure and revenue collection, specifically, so that, in the words of the IMF, we will have a recurring source of income that would satisfy our revenue requirements.

The administration of the tax on hotels that the Gentleman is referring to is a very simple administration system. There is

no difficulty in imposing any kind of collection on hotels because the collections are quite identifiable. Then if the effect would be negative, revenue-wise, and we will lose P270 million, why should we touch it at all when we have a present system that is working?

I referred to the computation because I do not know where the 12 percent is figured in. When one gets his bill, it is probably figured in to the \$100-room rate. But on top of that, on the bill we see the 10 percent service charge and the 10 percent tax which, I understand, are mostly local. Now, if we add the VAT, it will reflect on the bill as a separate item and the tourist will see 10 percent service charge, 10 percent tax, 10 percent VAT. That is going to be a very unpopular conversation piece when tourists see that right on the bill, it is 10 plus 10 in this country.

Senator Herrera: On the contrary, Mr. President, in response to the point raised by the Gentleman, this will replace the 12 percent. So, in effect, they will only be paying 10 percent instead of 12 percent.

As to the second issue of why we are instituting or expanding the base if, as in the case of hotels, in the end we will only lose in the case about P217 million, the idea here is, one of the important characteristics of the VAT is that we will be able to establish audit trail because those who are supplying goods and services to the hotels — the fact that the hotels will be under VAT — will start issuing receipts and all that.

On the whole, the revenue collection will improve, although some sectors, as in the case of the hotels, will only be paying 10 percent instead of 12 percent. But if we take it on the aggregate, there will be an increase because it will become more efficient.

Senator Maceda: Now, let us go to the next item which is a separate item altogether, although it is related. Restaurants and caterers are now going to be covered by VAT.

Senator Herrera: Yes, Mr. President.

Senator Maceda: Why were they exempted from the VAT in the first place?

Senator Herrera: That is precisely my point, Mr. President. I think the Gentleman has correctly pointed it out. When the implementation of the VAT was under study, there was no sufficient time and we did not also have enough experiences of other countries that we can rely on in our study. As a result of that, there were several loose ends in the VAT coverage. There were several goods and services which were not covered so that it weakened the enforcement of the VAT. That is precisely the reason we are now introducing this VAT refinement to make it

as comprehensive as possible by expanding the tax base and, at the same time, replacing several tax measures.

I think the Gentleman has raised that yesterday, and I pointed out the various tax measures being replaced by the VAT. In that way, we also simplify the whole tax system in our country, Mr. President.

Senator Maceda: Mr. President, again, I raised this same question earlier. When the Gentleman is talking of restaurants, he is talking of food; and certainly, when he is talking of restaurants, it is not limited to the Champagne Room, Abelardo's, Furusato, or the restaurants for the rich. And if we go by present prices, even very small restaurants do gross much more than P200,000 a year. I know of a small hole in the wall, near the University of the East — probably, it is just about five by eight meters — that grosses P200,000 a month. That is not uncommon now.

What I am saying is, we are at a time where, again, people are having a hard time just to make both ends meet, especially students and employees who have to eat out during the noon hour. That seems to be, again, swimming in a different direction if we add a 10 percent tax on restaurants which will surely be passed on to the consumers. There is no doubt about that.

Senator Herrera: That is precisely the reason, Mr. President, I indicated — during the first time the Gentleman interpellated this Representation — the need to review the threshold or the cutoff income. Since 1988, when this was established, the purchasing power of the peso has eroded. I think there is a sufficient justification to raise that from P200,000 to a higher level.

Personally, I am also very much concerned about this, considering that my family is engaged in the restaurant and catering services. But the point is, we shall see to it that the poor people will not be affected. That is why we have to review the threshold.

The other point, Mr. President, is that there should be equity. We can include goods and services as wide as possible and then eliminate the other tax measures. In the end, because of efficient and simple tax system, we will be able to collect more and reduce the tax rate on some tax measures.

As I pointed out yesterday, this is one of the structural reforms. Eventually, there will be a comprehensive tax reform. The intention is to eliminate certain tax measures which will be replaced by the VAT.

Senator Maceda: Mr. President, we have no argument with

that particular argument. We have no difference of opinion. The only point we are raising — and which we will show later on, that is why we asked the Gentleman for a breakdown of the collections — is that the improvement will really be in the big manufacturing sector.

On the expansion to include tax on food through the restaurants as inclusion of tax on pesticides for the farmers, the Gentleman now says that even the inclusion of tax on hotels is going to be a reduction. These are not the real items that should be looked into but the present big ones, mostly in the manufacturing sector, and the evasion that is happening.

For the record, may I therefore clarify finally that outside of the exclusion of P200,000 or P300,000, as the case may be, all kinds of restaurants, cafes and all kinds of caterers are going to be subject to VAT if this measure is passed.

Senator Herrera: That is the intention in order to make it uniform and equitable. But we have to establish a threshold to exempt small restaurants whose customers are the poor people. We have to review the threshold.

Senator Maceda: But the threshold is in terms of a gross income. The threshold is clearly beneficial if we are going to the item, for example, of professionals where we are talking about their personal income. When we are talking of restaurants, whether the threshold is P300,000 or P500,000, if the effect is to increase the prices of the food being served in these restaurants, the threshold of whatever level is not going to be a major factor.

Senator Herrera: Maybe in the middle level and upper level restaurants. But if we are talking of *karinderiya* where the rental is too low, the food is really inexpensive, we will find that P350,000 or P300,000 gross sales is not easy to reach.

Senator Maceda: This will include, for example, all the restaurants in the cockpit in Imus, Cavite.

Senator Herrera: Provided that they are earning more than the threshold that I intended to propose as an amendment.

Senator Maceda: While we are talking about cockpits, will this apply to the bets in the cockpit? Sometimes it is P1 million per cock owner. Are we going to impose a 10 percent VAT on cockpit bets?

Senator Herrera: If I am not mistaken, this is covered in a different law. It is part of the amusement tax. Under the amusement tax, Mr. President, it is 30 percent. It is quite high.

Senator Maceda: Thirty percent?

Senator Herrera: The amusement tax.

Senator Maceda: That is only for the admission. I do not think it applies to the bets.

Senator Herrera: I am sure it is not covered under the VAT. That is considered part of the income.

Senator Maceda: What I am saying is, why do we apply the VAT to the food that is being served inside the cockpit and we do not apply the VAT to the bets that are being made in the cockpit arena? The people who are betting with their cocks can afford to pay the VAT more than the *crastos* and the spectators who are eating in the *karinderiya* and the restaurants inside the cockpit.

Senator Herrera: The Gentleman classifies gamblers as a profession. Anyway, we will look into that. I think the Gentleman has a point there.

Senator Maceda: In the order of objections in this list, my biggest objections are to those three items. I do not have too much objections to professional athletes, artists, lease of real properties, sale of real properties, et cetera. What is covered by the word "intangible"?

Senator Herrera: We define "intangible" under....

Senator Maceda: Is intangible the same as untouchable?

Senator Herrera: No, Mr. President.

Senator Maceda: They are different.

Senator Herrera: "Intangible objects include motive power, heat, and other forces of nature brought under control of science. It also includes that which has no physical existence but which has a value based on a legal right such as but, not limited to, the following:", and then we enumerated these. This is on pages 2 and 3 of the bill, Mr. President.

Senator Maceda: In short, we are now going to impose the VAT on electricity?

Senator Herrera: It is not under this bill, Mr. President. We will find those transactions exempted under letter (j), Section 103, "Services subject to percentage tax under Title V", and included there are the utilities. They are exempted.

Senator Maceda: So, utilities are exempted from the VAT up to this point.

Senator Herrera: Yes, Mr. President.

Senator Maceda: How about solar equipment which produces electricity? Those are being marketed now even to the barangays.

Senator Herrera: I think the supplies of the solar equipment should be covered by VAT.

Senator Maceda: Under the definition, they should be covered, Mr. President. Again, we have a policy question here.

At a time when the Government cannot provide electricity on its own, and people buy a solar roof or a solar windmill, whatever it is, so that they could illuminate the *poblacion* or the barangay, will they be paying VAT?

Senator Herrera: Provided their income is above the threshold.

Senator Maceda: We are talking about the price of the equipment that they are buying.

Senator Herrera: They should be covered, Mr. President.

Senator Maceda: Exactly, Mr. President. Should they not be exempted to encourage more people to have solar equipment at a time when we have problems with the cost and the supply of generated electricity? Should solar equipment be subjected to VAT?

Senator Herrera: I will check whether they are among those which were granted tax exemptions on importation. I recall that machines or engines, for purposes of providing source of electricity, were exempted at the height of the brownouts or blackouts. There were exemptions on the tariff.

Senator Maceda: Mr. President, I do not know if Senator Webb will be interested in this.

It seems to me that under Subsection (D), page 3, it is clear that we are imposing VAT now on radio and TV time.

Senator Herrera: That is the intention, Mr. President. Because in my personal experience — I used to manage a radio station — I feel that this sector should also be covered under the VAT.

Senator Maceda: We are also imposing VAT on the right or the privilege to use motion picture films, films, tapes and discs. Meaning to say, everybody who owns a laser disc machine, everybody who owns a big television set where he can

use tapes and films, is subject to VAT?

Senator Herrera: This paragraph refers to the distributors, Mr. President.

Senator Maceda: The way it is worded, it says, "the right or the privilege to use motion picture films, tapes and discs."

Senator Herrera: Precisely, Mr. President. Because when one distributes films, he has to get the right or the privilege to distribute these films. The movie producers are actually lobbying in Congress for this provision to be exempted from VAT. And this is only imposed in the course of the trade. We know that when one is engaged in trade, that is his business. If one is producing his own or, say, filming his vacation in Europe and gives this or barter this to a friend, it is not covered because that is not his business.

Senator Maceda: But the way it is worded, it even says, "OR THE PRIVILEGE TO USE".

Senator Herrera: We will have it clarified, Mr. President, during the period of amendments. As I said, the movie producers are lobbying in Congress for this provision to be exempted from VAT.

Senator Maceda: Do we have an estimate as to how much additional revenue Subsection (C) will bring? Or just like the hotels. Is this just a refinement and will result in a loss of around P270 million or something?

Senator Herrera: This will be an added income, Mr. President.

Senator Maceda: How much?

Senator Herrera: All in all, I think, it is about P147 million.

Senator Maceda: For intangibles?

Senator Herrera: For this particular trade or business.

Senator Maceda: For radio and television time, how much will be collected from that based on present prices?

SUSPENSION OF THE SESSION

Senator Herrera: May we have a one-minute suspension of the session, Mr. President.

The Presiding Officer [Senator Aquino]: The session is

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

It was 6:52 p.m.

RESUMPTION OF THE SESSION

At 6:53 p.m., the session was resumed.

The Presiding Officer [Senator Aquino]: The session is resumed.

Senators Herrera and Maceda are recognized.

Senator Herrera: The aggregate amount for intangibles, Mr. President, is estimated to be almost P600 million. It is P596 million.

May I also inform the Body that under the BIR regulations, radio and televisions are now covered.

Senator Maceda: How much are they collecting now?

Senator Herrera: That is why we have an aggregate of about P600 million.

Senator Maceda: For radio and television time?

Senator Herrera: Including the films. In the case of the film, Mr. President, I think there are only 137 local films and about 300 plus foreign films.

Senator Maceda: To complete the breakdown, under Subsection (A), it says: "The RIGHT OR THE PRIVILEGE TO USE PATENT, COPYRIGHT, DESIGN OR MODEL, PLAN, SECRET FORMULA OR PROCESS, GOODWILL, TRADE-MARK, TRADEBRAND OR OTHER LIKE PROPERTY OR RIGHT." How much is the projected collection there?

Senator Herrera: In the case of intangibles, these are the entire spectrum of... Included in the intangibles is about P600 million.

Let me now enumerate the potential revenue.

In the case of restaurants and caterers, it is P356.10 million. In the case of hotels and motels, there will be a loss of P217 million.

Senator Maceda: If the Gentleman is through in the breakdown, I refer again to P596 on intangibles. If he doesn't have it now, I would like it to be submitted.

The point is, paragraph (A) really goes also against the grain of encouraging inventors and people to submit patents. If this is only going to produce P10 million or P20 million out of the P596 million, then there will be a question as to whether we should even consider if the effect would be to discourage inventions and patents, which, traditionally, we always often try to encourage, and give special incentives and prizes too.

The same with the paragraph (B), the right or the privilege to use in the Philippines any industrial, commercial, or scientific equipment, especially scientific equipment. We are probably talking here in terms of new technology transfer. How much is going to be collected from this?

If, let us say, only P30 million or P40 million is going to be collected from this, why bother at all when the policy is to try to encourage people to improve their industrial, commercial, or scientific equipment? Normally, there are even tax-exempt provisions in almost any kind of new equipment that is being brought in especially if it is for cooperatives or for BQI-registered enterprise. And yet, when they start to use it, the right or the privilege to use it, they are going to pay a 10 percent VAT.

Senator Herrera: Mr. President, the one being taxed is the businessman who trades in patents and scientific discoveries that the Gentleman mentioned, not the one who discovered or invented this scientific invention. But the businessman who is trading on this, the trader who is doing business out of this, I think, should be covered by VAT.

Senator Maceda: Well, that is one side of it, Mr. President. If he has to pay more for using the patent, he will pay less to the inventor or to the patentee. That is also the other side of it.

Senator Herrera: On the contrary, Mr. President, it will not be the inventor who will be affected by this. Probably, this might make the invention a little costly once it reaches the end user. For the inventor, he can command the price of his invention and not be subjected to VAT, but the one who is trading his invention should be covered by the VAT.

Senator Maceda: Again, the wording does not reflect that interpretation because it speaks of the right or the privilege to use, not the right of the business of trading or selling the right to use the patent.

Senator Herrera: Mr. President, if this is just a matter of clarification, we will have it clarified.

Mr. President, I have here a data for four radio stations. The VAT is about P110 million. This is already being collected since they are subject to VAT. But the situation today is that, they are

covered by the VAT under a BIR interpretation of the existing law through a circular and what is just intended now is to put it clearly on this VAT refinement.

Senator Maceda: Mr. President, are there any other of these four subsections that are already covered and under existing rules and regulations?

Is paragraph (A) new or is it covered under existing law?

Senator Herrera: I suppose it is only on radio and TV, Mr. President.

Senator Maceda: So, paragraph (A) is new? The right or the privilege to use patent, et cetera.

Senator Herrera: Yes, Mr. President.

Senator Maceda: And there is no estimate at this time of how much it will bring in?

Senator Herrera: The Bureau of Patents provided us with the big amount which we are still verifying because, according to the Bureau of Patents, this might result in something like P2 billion. But that is something that is quite high, Mr. President.

Senator Maceda: Exactly, Mr. President, in the passage of tax measures, all these informations are relevant for us to make a decision as to whether to support it or not.

How about paragraph (B), Mr. President?

Senator Herrera: We can take the estimate of the Bureau of Patents since this is the only office that we can rely on in providing us an estimate.

Senator Maceda: Well, if this is P2 billion — the Gentleman originally gave me an estimate of P2.4 billion — Mr. President, then the total intangibles are much more than P596 million.

Senator Herrera: Mr. President, when the Gentleman asked me about the potential revenue, I said, "a very conservative estimate of P2.4." And that is also the reason why we would like to reexamine the data provided us by the Bureau of Patents that the potential revenue is about P2 billion.

Senator Maceda: Please do, Mr. President. And when the Gentleman has examined this, we would appreciate it very much if we can get the final estimate of how much No. 3 (A) will bring in.

Senator Herrera: The truth of the matter, Mr. President, my estimate — I think we can come out with a more solid basis for this — is Senate version will generate something like P5 billion, not P2.4 billion.

Senator Maceda: We will take note of that. That is quite a big jump, Mr. President, but I thank the Gentleman.

Senator Herrera: That is why I premised my statement yesterday on very conservative estimate of P2.4 billion.

Senator Maceda: And we still peg the House version at P400 million or is there a revision of that figure, Mr. President?

Senator Herrera: The Finance Department officials told me that it would be about P1 billion. But in one of the meetings that I had with the Chairman of the Committee on Ways and Means of the House, their estimate was something like P400 million. That is why they hinted to me of the possibility of the lifting the exemptions on certain items in the House version when the Senate starts tackling this bill.

Senator Maceda: Mr. President, I understand the difficulty of the Committee, and I am not going to make an issue as to any figures that are brought in. But, of course, I would like to hope that we have, at least, reliable figures that we can use to examine.

Let us go to 3(B), which says, "The right or the privilege to use in the Philippines of any industrial, commercial or scientific equipment."

Do we have some sort of estimate or any kind of figure on this?

Senator Herrera: This is included in the estimate given by the Bureau of Patents, which is about P2 billion.

Senator Maceda: Does the Gentleman mean that paragraphs (A) and (B) are included in the P2 billion? I thought the P2 billion is with regard to paragraph (A)?

Senator Herrera: This is supposed to be under this agency and that is their estimate, Mr. President. That is why for lack of other estimates, reluctantly, we are using that. But, as I said, that is something we really have to examine closely.

Senator Maceda: Do we not agree, Mr. President, that in the consideration of tax laws, the projected revenue is a very relevant consideration in relation to the administrative cost? Many times, whether it is our threshold of P200,000 or P300,000 or something else, the final decision is really based on the final analysis.

Assuming that this is a sensible tax, how much will it cost to administer and collect the tax?

Mr. President, I hope the Gentleman would not mind if we are insistent on some of these figures.

Senator Herrera: I would not mind, Mr. President. In fact, I, myself, am very insistent that the Department of Finance should provide us with accurate data. They tried their best and they are giving us sectoral contribution. But since the Gentleman is asking a particular sector now, I think we really have to go into the records of the BIR.

Senator Maceda: That is partly true, Mr. President. But also, the Department of Finance, when it comes to a new tax measure or a new item is sought to be taxed, I think, should fundamentally have some estimates based on some basis to propose the tax.

This Representation has been open about this. They were present when I mentioned this in a breakfast meeting here at Room 410 with the President, that part of the problem, based on our experience of the last six years, why we sometimes have a hard time or we are unable to support a tax measure, is that the tax measures are not sufficiently studied by the Department of Finance.

I no longer have to repeat the examples that I have used. Certainly, Mr. President, it would be difficult for us to immediately agree with any tax measure more than any other type of legislation, unless we have very definite, either actual or projected, figures that will be the result of any provision, any coverage or any exemption, or any threshold limit; otherwise, we are certainly legislating blind.

We would then be guilty of the same thing that the Gentleman and I have agreed upon, that part of the problem of the VAT was that its implementation or application was rushed in 1988 without sufficient study and preparation. That is exactly what we are trying to avoid this time.

Senator Herrera: Precisely, Mr. President. I said that since 1988, there has already been enough experience, that is why we identified the problems in the implementation of the VAT and the goods and services that ought to be covered by the bill in order that we can get the full potential of the revenues. These are not covered under the existing law.

Senator Maceda: Mr. President, if the Gentleman can, will he kindly try to ask the Department of Finance to submit, as close as possible, projected figures that will result from 3(A) and

separately from 3(B). If it is P2 billion for 3(A) and 3(B) jointly, and that will be confirmed by the Bureau of Patents, maybe the P2 billion could be broken down in how much for 3(B) and how much for 3(B).

Senator Herrera: We will endeavor to get the data on that, Mr. President. What we have is really an aggregate estimate. We do not have the breakdown. In effect, this will be a new coverage of the VAT. We do not have anything that we can get from the BIR, just the contributions of these various subsectors that the distinguished Gentleman is asking.

Senator Maceda: Mr. President, going now to 3(E), will the distinguished Gentleman favor us with a...

SUSPENSION OF THE SESSION

Senator Herrera: Mr. President, may I ask for a one-minute suspension of the session.

The Presiding Officer [Senator Aquino]: The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 7:11 p.m.

RESUMPTION OF THE SESSION

At 8:05 p.m., the session was resumed.

The Presiding Officer [Senator Aquino]: The session is resumed.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1630

Senator Romulo: Mr. President, I move that we suspend the consideration of VAT Refinements bill until tomorrow.

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

Senator Romulo: Mr. President, may I inform our Colleagues that copies of Senate Bill No. 1606, as amended, have just been distributed to our Colleagues. So, when we take up the individual amendments for Senate Bill No. 1606 tomorrow, please take note of the amended copy. And may I also remind our Colleagues to prepare their amendments both to Senate Bill No. 1606 and Senate Bill No. 1630.

We shall resume our session at nine o'clock tomorrow

morning, Mr. President, at which time we shall resume consideration of the VAT Refinements bill and, thereafter, Senate Bill No. 1606. Liberalizing the Entry of Foreign Banks.

Mr. President, we would like to remind and ask our Colleagues to reserve the entire day for tomorrow's session starting at nine o'clock in the morning as luncheon will be served here, so that we can continue our session. Also, there will be dinner tomorrow evening so that, again, we can continue our session. Breakfast, of course, will also be available so that hopefully, we do not have to come back here on Friday and Saturday if we can just reserve the whole day tomorrow.

CONFERENCE COMMITTEE ON
SENATE BILL NO. 397/HOUSE BILL NO. 380
(Amending the Omnibus Investments Code)

Mr. President, the conferees and they are meeting this evening — have already been so advised on Senate Bill No. 397, the Omnibus Investments Code, the Chairman of which is Senator Macapagal, with Senators Shahani, Tatad, Romulo and Tañada, as members.

MANIFESTATION OF SENATOR ROMULO
(Senator Shahani as Coauthor of Senate Bill No. 397 and
Senator Rasul as Coauthor of Senate Bill Nos. 127,
1467, and House No. 333)

May I also manifest that for Senate Bill No. 397, Senator Shahani is an additional coauthor. And for Senate Bill Nos. 127, 1467, and House Bill No. 333, with the consent and permission of the authors, Senator Rasul is coauthor.

Mr. President, I think the Minority Leader wishes to make a statement on Senate Bill No. 397.

MANIFESTATION OF SENATOR TAÑADA
(Negative Vote on Senate Bill No. 397)

Senator Tañada: Thank you, Mr. President. Had I been present when Senate Bill No. 397 was put to a vote on Second Reading, I would have voted "No." In fact, I had instructed my Chief of Staff to inform the Majority Leader about this.

So, I would like to enter this into the *Record* that my vote would have been "No" as far as Senate Bill No. 397 is concerned.

The Presiding Officer [Senator Aquino]: For the record, yes.

Senator Romulo: Mr. President, we have already cited the other bills in our calendar which we will take up after we have taken up Senate Bill No. 1630, the VAT Refinements bill, and Senate Bill No. 1606, Liberalizing the Entry of Foreign Banks.

SUSPENSION OF THE SESSION

With that, Mr. President, I move that we suspend this evening's session until nine o'clock tomorrow morning, and I suppose the Presiding Officer will add the word "sharp" to nine.

The Presiding Officer [Senator Aquino]: So that we will not meet Friday and Saturday, I suggest that we come on time and be prepared to spend the whole day and the whole night, if necessary.

Is there is any objection to the suspension of the session until tomorrow morning? [*Silence*] Hearing none, the session is suspended until tomorrow morning at nine o'clock.

It was 8:10 p.m.

RECORD OF THE SENATE

THURSDAY, MARCH 24, 1994

RESUMPTION OF THE SESSION

At 9:12 a.m., the Honorable Edgardo J. Angara, President of the Senate, called the session to order.

The President: The session is resumed.

The Majority Leader is recognized.

Senator Mercado: Mr. President, we have an Additional Reference of Business. May we ask the Secretary to read the same.

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

THIRD ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary: Senate Bill No. 1682, entitled,

AN ACT REGULATING THE PUBLICATION OF JUDICIAL NOTICES, ADVERTISEMENTS FOR PUBLIC BIDDINGS, NOTICES OF AUCTION SALE, NOTICES OF FORECLOSURE AND AUCTION SALE, EXTRA-JUDICIAL NOTICES INVOLVING ESTATE AND INHERITANCE, AND VACANCIES IN PUBLIC OFFICES, REPEALING FOR THIS PURPOSE PRESIDENTIAL DECREE NO. 1079 AND OTHER PURPOSES.

Introduced by Senator Tatad.

The President: Referred to the Committees on Public Information and Mass Media; and Constitutional Amendments, Revision of Codes and Laws.

Senator Lina: Mr. President.

The President: Senator Lina is recognized.

Senator Lina: After going through the bill as crafted, I believe that the Committee on Constitutional Amendments, Revision of Codes and Laws will have to have the first crack at this considering the nature of the bill.

The President: The Committee on Constitutional Amendments, Revision of Codes and Laws will be the primary Committee.

The Secretary: Senate Bill No. 1683, entitled,

AN ACT GIVING PRIORITY TO DISABLED INDIVIDUALS IN THE OPERATION OF VENDING FACILITIES IN GOVERNMENT PROPERTY, TO ENLARGE THE ECONOMIC OPPORTUNITIES OF THE DISABLED AND FOR OTHER PURPOSES.

Introduced by Senator Mercado.

The President: Referred to the Committee on Social Justice, Welfare and Development.

COMMITTEE REPORT

The Secretary: Committee Report No. 389, submitted by the Committee on Urban Planning, Housing and Resettlement on S. No. 1681, prepared by the Committee with Senators Macapagal, Herrera, Biazon, and the members of the Committee on Urban Planning, Housing and Resettlement as authors, thereof, entitled

AN ACT TO ENERGIZE THE HOME DEVELOPMENT MUTUAL FUND, OTHERWISE KNOWN AS THE PAG-IBIG FUND, REVISING IN THE PROCESS ITS CHARTER UNDER PRESIDENTIAL DECREE NO. 1752, AS AMENDED BY EXECUTIVE ORDER NO. 35, AND FOR OTHER PURPOSES

recommending its approval in substitution of Senate Bill Nos. 1423, 1430, and 1613.

Sponsors: Senators Macapagal, Herrera, Biazon, and the members of the Committee on Urban Planning, Housing and Resettlement

The President: To the Calendar for Ordinary Business.

Senator Mercado: Mr. President.

The President: The Majority Leader is recognized.

BILL ON SECOND READING

Senate Bill No. 1630 - VAT Refinements
(Continuation)

Senator Mercado: Mr. President, I move that we resume consideration of Senate Bill No. 1630 as reported out under Committee Report No. 349.

The President: Resumption of consideration of Senate Bill

No. 1630 is now in order.

Senator Mercado: We are in the period of interpellations. I ask that the Sponsor, Senator Herrera, and Senator Maceda, to continue his interpellation, be recognized.

SUSPENSION OF THE SESSION

Senator Maceda: Mr. President, may I ask that we suspend the session for a few minutes while I get my documents together.

The President: The session is suspended for a few minutes, if there is no objection. [*There was none.*]

It was 9:14 p.m.

RESUMPTION OF THE SESSION

At 9:18 a.m., the session was resumed.

The President: The session is resumed.

Senator Maceda: Mr. President.

The President: Senator Maceda is recognized.

Senator Maceda: Mr. President, after some rechecking, could we just go back a little bit to some basic premises?

How much does the IMF, President Ramos or Secretary Enriquez want the Gentleman to raise as a total revenue package?

Senator Herrera: Maybe, we should put it this way, Mr. President. How much really does the Government need in order to bridge the funding gap?

I think the Gentleman is privy to one or two meetings with the President. The expected deficit for 1994 is something like P28 billion, if I am not mistaken. It is P28 billion.

Senator Maceda: Is the Gentleman saying that we are now going to adopt a balanced budget theory and cover completely the deficit gap, whatever it is?

Senator Herrera: The idea, Mr. President, is to see to it that the deficit will not be more than 2 percent in relation to GNP for 1994 and 1.4 percent for 1995. That would mean that there is very firm commitment on the part of the Government to see to it that our deficit will not be as much as that of 1993 in relation to GNP so that we can control or see to it that the inflation rate will not be more than two digits and, hopefully, the interest rates

will also be reduced.

Senator Maceda: Mr. President, that answer is, of course, a revelation to me. I recall in one meeting that I attended there would be an attempt to bring the deficit down to 2.2 percent and I recall that before that, from Jimmy Ongpin to Vicente Jaime to Jesus Estanislao to Ramon del Rosario, Jr. to Ernest Leung, they were telling us over and over again that a 3.5 percent of GNP deficit rate is acceptable. I recall that at one particular time there was even a suggestion that for a development budget, even 5 percent is liveable.

What new book of economics and public finance is the Ramos Administration suddenly using that we are now down to 2 percent and 1.4 percent? Is this within the parameters of the Medium Term Philippine Development Plan? Is this something that, maybe, our Committee on Economic Affairs should look into, together with the Committee on Finance, as to what is going to be the basic premise on our public finance policy vis-a-vis deficits, vis-a-vis proportions to the GDP?

Senator Herrera: As the distinguished Gentleman knows, not only among our economic planners but even here in this Chamber, we have different views whether we would support the idea of taking a stand that we can proceed with a maximum deficit of 5 percent in relation to GNP, or less than that. I am one of those who believe that, as much as possible, we should have a balanced budget. I strongly believe that the deficit spending of the Government is the principal culprit in the increase of inflation and that we cannot afford to have high inflation rate, considering that 49 percent of our people are living under poverty.

I really reject the idea that we can have a parameter of 5 percent in relation to GNP as our deficit. I cannot agree with the justification that we can go as high as that because we really have to assume certain risks in order that we can invest on development programs. We can proceed to borrowings and incur a deficit of 5 percent on the justification that we should have a growth budget. Perhaps it is just a coincidence. I strongly believe that as much as possible we should control the deficit. In fact, if we can reduce the 1.4 percent in 1995 to 1 percent, I think that will be very ideal.

Senator Maceda: Mr. President, we can reduce it to 0 percent if the Gentleman, as a ranking Vice Chairman of the Committee on Finance, will just agree to keep the Budget at present levels instead of increasing it to P102 billion. The ball game is not only on the revenue side; it is more on the expenditure side, as we very well know by now.

Senator Herrera: I agree with the Gentleman, Mr. Pres-

ident. When the time comes that the Budget will be submitted to this Chamber, our Colleagues can expect that this Representation will do everything possible to trim it down to the level that we can, more or less, approximate a balanced Budget.

Senator Maceda: Is the Gentleman saying that the P28 billion funding gap or deficit that he is talking about is now based on 2 percent of GDP rate?

Senator Herrera: It is 2.2 percent, Mr. President. I would like to be corrected on that because what happens is that, in the first document that I received in one of the briefings, it was 2 percent, but later, as the Gentleman pointed out during the testimony of the Secretary of Finance in the confirmation hearing, he mentioned 2.2 percent.

Senator Maceda: Who gave the Gentleman the document showing 2 percent? Is it the Department of Finance?

Senator Herrera: I do not know if it was prepared by the Department of Finance. But it is one of the documents submitted in one of those breakfast meetings which the Gentleman has attended.

Senator Maceda: I remember when we were talking about 2.2 percent, I was one of those who brought it out. Why are we now looking for so many tax measures when we have already reached mostly by nontax measures the P10.5 billion substitute for the oil levy collections that we were trying to look for?

Secretary Enriquez unwittingly blurted out that it was because they wanted to raise not P10.5 billion but a total of P21 billion because of their commitment to the IMF to reduce the deficit to 2.2 percent. The point is, why P28 billion when I distinctly recall that the figure was P21 billion?

Senator Herrera: I did not get the point of the Gentleman, Mr. President.

Senator Maceda: The Gentleman is saying that we want to raise P28 billion to effect a 2.2 percent of GDP deficit rate.

Senator Herrera: What I said is, the expected deficit is P28 billion. I did not say that Congress will be the one to raise the entire P28 billion. It could be through some administrative measures. What is important is for us to be able to control the deficit to the level of 2.2 percent in relation to GNP.

One of the factors that we have to consider why we really have to control the deficit is that, if we look at our export-import performance, we will find that the import is increasing by 33 percent while that of our export is only 20 percent.

If we will not control the deficit of the Government, the consequence is that, we will not be able to stabilize or balance our finances. This will affect the Government's financial condition, and the Government will not be able to contribute to the balance of payments.

Senator Maceda: Certainly, we have gone through this, but let us start on the P28 billion which is equivalent to 2.2 percent.

The next logical question is, out of the P28 billion that we want to cover, how much of this amount is proposed to be covered by legislated measures?

Senator Herrera: I recall, Mr. President, that in the meeting at the Army-Navy Club, the distinguished Senator is one of those who made the proposal that we should divide that equally between the Executive and the Legislative.

Senator Maceda: That is correct, Mr. President, but let me correct the distinguished Senator right away. At that time, what was being discussed was only the P10.5 to P11 billion on the oil levy, and there was P11 billion actually. Remember, we agreed that we should divide it 5.5 each.

Senator Herrera: Yes, for the oil levy.

Senator Maceda: So, the 28 billion is not in the picture yet.

Senator Herrera: I agree with the distinguished Senator, because I recall that Senator Gonzales even raised the point that we should not confuse the replenishment for the potential loss as a result of the withdrawal of the oil levy and the projected deficit.

But the question of the distinguished Senator is: How much do we have to raise in relation to deficit? I pointed out to him that the expected deficit is P28 billion. But if he wants to confine it to how much we are going to replenish, as a result of the withdrawal of the oil levy, I would like to confirm his statement that we have to divide the P10.5 billion.

Senator Maceda: I just wanted to get a parameter for our discussions. Whatever figure the Gentleman would tell me — for example, if he would say 50/50 on the P28 billion, just as a theoretical example — I would have to really get a more definite answer later on after consultation with his staff.

The next question is: How do we divide this P14 billion? First, how much will be generated from the stock transfer tax, the VAT legalization and the alien legalization, which are the three major measures. I think we can even add — because it is only now that it is coming into play — what will be collected additionally from the 50 percent of the GOCCs. That is really

the direction I am going.

I would like to know what is the revenue that the Gentleman wants to raise through legislation, through the sponsorship of all these measures now on the Floor, and the forthcoming alien legalization, so we can assign to VAT, to alien legalization or some other additional revenue measures the target. We cannot be legislating in a vacuum as to what our overall target is for revenue and within that, what the target is per tax measure. As we very well know, legislating tax measures is always a matter of choice. Whom do we tax? How much do we tax? And when do we tax? We can only answer those relevant questions if we know the actual figure we are shooting at.

Senator Herrera: Mr. President, just a short comment to the last point that the Gentleman has raised. In the first place, I think it is not just a question of whom we are going to tax and how much. We have also to consider whether there will be equity and whether the tax is progressive.

The other point that I would like to stress here, Mr. President, is that, fine, let us establish targets. I agree with the distinguished Senator that we should have a target. But suffice it to say that as far as the Senate is concerned — and I think this is a sort of institutional commitment — we have already approved the stock transaction tax, This will be the last tax measure that we have to approve — the VAT.

In the case of the alien legalization, as we know very well, it is not a tax measure, although there is an incidental revenue to that. But then, while there were several projections as to how much we will be able to derive from it, it all depends on the number of aliens, and how many of these aliens will be applying later for permanent residence status, and how much we have to decide as to the amount they will have to pay.

Basically, Mr. President, we have only two tax measures. The stock transactions tax from which we estimate we will be able to derive something like P400 million to 600 million, assuming that the increase is from one fourth of 1 percent to one half of 1 percent. But what we approved here in the Senate is an increase from one fourth of 1 percent to three eighth of 1 percent, and we might lose for the first year a potential revenue of P162 million. So, we will generate about P400 million for the first year.

And in the case of the vat, we have a very conservative estimate of P2.4 billion and a maximum of P5 billion.

Senator Maceda: Let me just react by saying that the Gentleman does not disagree with me in any way, because we are just talking of the same thing in two different languages when

we speak of equity. Precisely, that goes to the question of whom to tax and whom not to tax.

When we speak of equity, that goes into the question of how much to tax whom and how much not to tax whom. And then when we talk of the reduction of the stock transaction tax, that goes into the question of when shall we apply the tax.

Be that as it may, the answer of the distinguished Sponsor is satisfactory, except for one reminder that I respectfully remind him about. And if he has forgotten, we can refer to the official *Journals*.

I recall, Mr. President, that when we were discussing the documentary stamp tax, the distinguished Sponsor said then that it was also the last tax. Now after having said that, there was some indication maybe, after a breakfast meeting, the VAT would be the last tax measure to be approved by this Body. Pagkatapos, nadagdagan na naman nitong stock transaction tax. So, I do not know whether we are really talking of the same definition of "last tax." Or this is similar to "The Last Tango in Paris."

Senator Herrera: Mr. President, I would like to assure the distinguished Gentleman that there is no contradiction. When I said it during the debate on the documentary stamp tax, it was a personal sentiment. But then, after or during the debate on oil levy and during one or two meetings with the President — and the Gentleman was there, — there was a sort of institutional commitment that we really have to enact this stock transaction tax and the VAT. Then, as a good Member of this Chamber, I cannot impose my will over the will of the institution.

Senator Maceda: Well, if the Sponsor recalls, when we had a meeting at Room 410, I already raised my objection, although respectfully, to this stocks transfer tax. And after that, I decided to no longer attend the subsequent meeting in Malacanang precisely because we were, as the Gentleman has described it properly, sort of committing the institution, although there was no clear commitment.

And there should not be any because the final decision on what to legislate or not should be adopted after the deliberations on the Floor. That is the rationale for the legislative process. That is the rationale for all these debates. Because if we are going to go on the basis of institutional commitments in a breakfast meeting with the President, we might as well abolish all our sessions and just confine ourselves to breakfast meetings with the President as the mode for legislation.

Senator Herrera: Mr. President, men like Senators, when they give commitment, it is always with good justification. And

I suppose that when there was that term "institutional commitment", it is because we are also convinced that there is really a need to raise revenues, because the economic situation of our country is such that we really have to be concerned of the deficit.

We know very well that if we will not be able to address effectively this problem of the deficit of the Government, it will be the masses, the poor people, and, perhaps, all of us who will assume the burden, the pain of high inflation, of stagnation. And perhaps, we will not be able to see the light at the end of the tunnel where our people are hoping that in a few years, those who are unemployed will be able to get employment, and we can improve our social services, and can expect that there will be economic development.

I think, these are the bases of that institutional commitment, not because President Ramos told us that we have to enact these tax measures.

Mr. President, knowing the Gentleman and knowing the Members of this august Body, not one of us will succumb to any dictation. I would like to assure the Gentleman that as Chairman of the Committee on Ways and Means, I am also a very stubborn fellow. But being stubborn sometimes, we have to subsume that to the interest of the country.

Senator Maceda: Mr. President, there is no debate on that neither was there any suggestion that the Gentleman is less patriotic than anyone in this Chamber.

What I am just saying over and over again — and many times the Gentleman has agreed with us over and over again — that when we talk of deficit and its ill effect on the Filipino people, the problem — over and over again, it will be repeated for the nth time — is not with this Chamber, but with the wasteful extravagance of the Executive Department.

If we cannot see the light at the end of the tunnel, it is because the tunnel has been flooded with wastes and the extravagance of the Executive Department. It is flooded with wastes; it is flooded with dirty water; it is flooded with dirty garbage, and because of which, we cannot literally see the light at the end of the tunnel.

Senator Herrera: Mr. President, if I may react, to a large extent, I agree with the Gentleman that there is so much wastage, there is so much lack of prudence in the utilization of our limited resources. But I think it is the good fortune of our people that we still have the Senate.

Senator Maceda: That is correct, Mr. President, and it is the good fortune of our people that with the Senate, we have not

been stampeded just like the other Chamber to pass a package of tax measures which are very hard to justify during times when people are not even having enough income to take care of their basic needs. As the Gentleman has very well pointed out many times, a situation where our tax system is still regressive in mostly indirect taxes, as a result of which, even the Administration has accepted the necessity for the new Secretary of Finance to organize a task force to really go into an in-depth tax reform program.

I am just concerned that taxes, like the VAT, especially with some of the items in the expanded base, which we discussed yesterday, are again going to hit not those who have the ability to pay, but those who have the lesser or the least ability to pay.

Senator Herrera: Mr. President, in the end, the collective judgment of the Senate will assure our people that the VAT Refinement version of the Senate will not burden our poor people. On the other hand, the main intention is to see to it that there will be equity, that there will be resources of the Government that we can use for economic development program of the Government so that the people themselves will be able to enjoy the fruit of these programs, Mr. President.

If the Gentleman recalls also, Mr. President, during the confirmation proceeding of the Secretary of Finance, if I am not mistaken, he was the one who raised the question about the programs of the Department of Finance on the matter of taxes. The Secretary of Finance, in a very categorical manner said that, the program is the comprehensive tax reforms which will result in the abolition of certain tax measures now. It might be a reduction, but the effect of the tax reform program will generate more funding for the Government in the sense that everybody will be encouraged to pay. And, if I am not mistaken, the Secretary of Finance also made it very clear that as far as the Department of Finance is concerned, the refinement of the VAT could be the key to today's comprehensive tax reform because this is preparatory to the implementation of the said program.

Senator Maceda: Let us move forward a bit and then, go into specific figures.

Am I correct in my recollection that the stock transaction tax is supposed to raise P800 million a year?

Senator Herrera: No, Mr. President. What was mentioned during the public hearing is that, even without imposing new taxes, based on the transaction now in the stock exchange, this will result in additional income of P800 million. That was their projection. But I really have my doubts on this. Maybe this can happen in 1995, 1996 but, I am not very confident for 1994. The representative of the stock exchange said that we

should not impose new taxes because he is confident that the unification of these two offices will result in increased revenue and his estimate would be about P800 million.

Senator Maceda: That is right, Mr. President. It is not only the representative, but as far as the official slides and the handouts of the slides that was shown to us are concerned — in fact, it was even put into the handout on a schedule — the stock transaction tax of P800 million is supposed to come in around the last third of the year. I saw specifically P800 million.

Anyway, let us move on. According to this VAT refinement documents that the Gentleman gave me, shall we now accept P5.482 billion as the final figure that the proposed Senate Bill 1630 is supposed to raise?

Senator Herrera: I have no objection to using this as the estimate, Mr. President, although, I would like to point out that as regards Roman numeral III, we should not include that in the computation, based on our experience. Let us not make this as an absolute yardstick that we will be able to get this amount.

Based on our past experience, every time that we are given projection, at the end of the year, we are giving hard data which are definitely very much below the projected targets, Mr. President. So for purposes of projection, this can be used, Mr. President.

Senator Maceda: All right. For purposes of projection, as far as the Executive Department is concerned, in those briefings, am I correct in recollecting — because it could have changed in the last — in the first briefing that I attended where I saw the figure, they assigned P1 billion to the Alien Legalization Bill, and in the last briefing that I attended, it was up to P2 billion. What is the update on how much is supposed to be raised by the Alien Legalization Bill?

Senator Herrera: I wish Senator Roco is around, Mr. President. There was really an estimate of P1 billion; there was also an estimate of P10 billion, but it depends on the number of aliens that we have in the country.

That is why I wish the good Senator from Bicol is here because I do not have the updated data on that. What I know is that it is still the P1 billion.

SUSPENSION OF THE SESSION

Senator Maceda: Mr. President, maybe the good Senator from Bicol will come in in a few minutes.

May I ask for a one-minute suspension of the session.

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

It was 9:51 a.m.

RESUMPTION OF THE SESSION

At 10:30 a.m., the session was resumed.

The President: The session is resumed.

Senator Maceda is recognized.

Senator Maceda: Mr. President, just a few more questions.

On page 2 of *The Business World* today, it says:

BIR Rules Sale of Bottled Water Subject to 10% VAT

Overtaking its six-year old decision, the Bureau of Internal Revenue recently ruled that the sale of bottled mineral water is subject to 10% value-added tax.

Under the law that we are refining, is this possible that the Bureau of Internal Revenue can decide at one time that something is covered and after six years it can change its mind?

Senator Herrera: I mentioned during the Gentleman's earlier interpellation, that one of the problems in the enforcement of the VAT is that there is flip-flopping and there is problem in the interpretation of the law. In fact, if the Gentleman will recall, there was a furor as a result of the tax imposed on the purchase of gold by the Central Bank. Later it was reversed because it was considered as an export since it is the Central Bank that was trading that and, therefore, it will be zero rated under the VAT.

We will see to it, Mr. President, that during the period of amendments, we will be able to clarify and make clear the intention of Congress under this refinement.

Senator Maceda: Mr. President, I went out of my way, busy as our schedule is, to actually talk to some people in the BIR. This would be interesting to the Sponsor because this is really what I indicated to him in the beginning of this debate.

I asked them what is the problem with the VAT. These answers were given by people at level higher than Regional Directors or District Directors.

One is overstatement of creditable input tax. This is resorted to by means of the use of questionable deductible items from the VAT returns. For example, if the cost of materials is P1 million, it is made to appear as P2 million. It has nothing to do with the base, Mr. President.

This comes from somebody who is of commissioner level. They admitted. What I am trying to say is, the problem is not with the base or with the expansion. Even if we adopt all the base expansions, if they will continue to tolerate questionable returns, wala ring mangyayari.

Senator Herrera: Hopefully, with the SGS and what we are now developing in the Bureau of Customs, the value library, it seems that they are getting the data from country of origins on our imports and the correct value there which will be the basis in the determination of the valuation of the import item. I suspect, Mr. President, that this corruption is going on because, right now, we do not have data from other countries as to the actual value of certain items that are being imported into the country. That is why they are increasing it from P1 million to P2 million, and this will result in a loss of government revenues.

Senator Maceda: This is with regard to imports, and the example I cited applies even to ordinary transactions.

The second item reported to me is, the taxpayer usually resorts to fictitious suppliers to support claims for import tax credit.

Senator Herrera: That is the reason we really have to enact this particular bill, Mr. President. Ang nangyayari ryan, because some are exempted from the coverage of the VAT, mahirap mag-establish ng audit trail.

As I mentioned earlier, in the case of the hotel industry, many of the suppliers are not also issuing receipts because hotels are not covered after all. Once all is covered, everybody would like to make sure that there should be a genuine receipt because of the crediting of input tax.

Senator Maceda: This is an actual case, Mr. President. I think the Gentleman will probably guess who my source of information is.

Most of the big cigarette dealers do not like receipts and invoices. This is the problem — there are no receipts and invoices. Since there are no receipts and invoices to the wholesale dealers who are buying their products, the manufacturer also underdeclares his production. That is happening.

Just like one of the major companies — I am not talking

about the favorite of the Administration, but the other one — what has happened? The documents are missing from the BIR. Iyan ang mga problema ng VAT. Hindi naman ito ang pinag-uusapan natin.

Sa implementasyon, wala talagang resibo. Ayaw ng malalaking kompanya na magkaroon ng resibo dahil mati-trace ang lawak ng negosyo nila. But if the BIR continues to allow, connive and tolerate it, parang ipinupukpok lamang natin ang ating mga ulo sa semento.

Senator Herrera: Regardless of whether we have the VAT or sales tax or manufacturers tax, as long as these are the people we have in the BIR, lugi ang Gobyerno. To effectively address this problem, we have to revamp or if possible, we have to abolish the BIR and create a new one.

Senator Maceda: Mr. President, will the Committee of the Gentleman look into the matter of loss of records in the BIR? The first case is La Suerte, and the second case is, I think, Marubeni. These are big cases — parang nawawala lahat ang records.

Senator Herrera: These are very important informations, Mr. President, and I would like to assure the Gentleman that we will look into these cases.

In fact, in the case of the Bureau of Customs, we are in the process of conducting a study in connection with our SGS hearings when we come back after our recess.

We have certain models here. If the Bureau of Customs is really beyond rehabilitation, probably we will adopt the model of Indonesia where all the activities, except administrative work, will just be retained by the Government. Maybe we can contract them out for a period of five years to give the Government time to reorganize and create a new Bureau of Customs. This may be subject to certain legal and constitutional restrictions, but we should study the possibility whether we can have an absolute revamp of the BIR.

Senator Maceda: This next information comes from — I can mention his name because he is already retired, and he acts as my consultant — Atty. Rey Floreza. Does the Gentleman know him?

Senator Herrera: Yes, Mr. President.

Senator Maceda: He says that on imported goods, they underdeclare the value of the source. For example, if the value is really \$100,000, the bill of lading or the import entry documents will reflect less than \$5000. This is true specially with the chop-chop importations before.

How do we remedy that?

Senator Herrera: Mr. President, as I mentioned earlier, just like some agencies of the Government, PNP, for example, the distinguished Senator knows my position on the matter in the case of the PNP, and even in the case of the Bureau of Customs. Maybe we really have to create a new office.

Senator Maceda: The next example he gave me is, private contracts are very common that contractors and clients or the owners of the building or house undervalue the contract.

Even in the sale of contracts, if we are now going to cover sale of real estate, up to now, we know, as a matter of course, that all sales in Forbes Park, all sales in Dasmariñas, all sales in Valle Verde are all undervalued. And in spite of the attempt at zonal valuation and this and that, the going rate, is we just give the BIR people P50,000 and they will accept any valuation in the contract of sale.

Senator Herrera: Mr. President, sometimes it is sadder to think that this is sort of a cultural problem. But I feel that there is still hope that we can change the present situation.

I read, for instance, the history of France. During the early days that they also implemented some of their tax measures, only about 38 percent of the people were paying and the rest were really cheating.

In fact, in that article, they also considered that, at that time, it was more of a cultural problem. Probably, we are in the same state of France at that time.

Senator Maceda: Another interesting point. I am not sure I agree with him, but we should study this.

Under Section 100 of the VAT law, export sales are exempt from VAT. Because the general rule is, all sales of goods are covered by the VAT. The rationale for the exemption is that export sales earn dollars. Hence, garment exports are exempt from VAT.

There is a strong lobby to retain this exemption. He believes, however — that is Atty. Floreza, I do not know where he got that — that export sales should not be exempt from VAT anymore, because when the VAT law was originally enacted, we had an acute shortage of dollars, and we had a foreign exchange problem which is not true anymore. Right now, we already have an oversupply of dollars.

Has the Committee studied the coverage of export sales?

Senator Herrera: These are zero-rated, Mr. President. But we will look into that.

Senator Maceda: Of course, he brings in the case of former Executive Secretary Garrucho. Gold panners of raw gold sell their produce to the Central Bank, which means they become gold reserves. Mining companies claim they are export sales — constructive export or deemed export, according to EO No. 226.

The position of the Legal Division of the BIR was, it is not an export sale because the gold never left the country. Since this is legislation, he has suggested, "Whatever is the Executive interpretation or the Executive Order, if you want, this particular item could now be subject to legislation."

Senator Herrera: I have no problem with that, Mr. President. In fact, if I had my way, I would like all be within the coverage of VAT to make it very equitable, and to absolutely strengthen the implementation of the VAT and simplify our tax system. I have no problem with that.

Senator Maceda: Of course, one of the suggestions given as to how to improve the implementation of the VAT is to improve the audit capability of the BIR. What is the opinion of the distinguished Senator?

Senator Herrera: How is that, Mr. President? I am sorry.

Senator Maceda: One of the suggestions given to improve the enforcement of the VAT is to improve the audit capability of the BIR.

Senator Herrera: Precisely, that is what I said, Mr. President, that once we will have a comprehensive VAT, then we can also establish a very strong audit trail, and then strengthen the capability of the auditing office of the BIR once we have already the basis for that because everybody will be issuing receipts.

Senator Maceda: Part of the problem, Mr. President, is that the basic concept of VAT is, it is self-policing because the earlier taxpayers will have to claim the refund or the credit when it goes into another transaction. And precisely, there is the problem of the difficulty of checking invoices and receipts. It is similar but it is again a specific problem. Besides false invoices, false receipts, assuming that the invoices are really issued and they are accurate, it is still difficult with millions of transactions to really check invoices and receipts, especially under a regime where the Commissioner of Internal Revenue including the present one, insists on voluntary compliance and has not allowed the field personnel of the BIR to do any checking.

Senator Herrera: Well, if that is really the attitude of the present BIR Commissioner, I am afraid that he will not or she will not succeed as a Commissioner. I think what we need is like what many countries have, as the United States, where they really have very active IRS checking records and reports of taxpayers.

Now, the other point also, as I would like to stress again is, that is the reason we should have a comprehensive VAT and as much as possible, include all. In that way, it will become easier to implement this particular measure.

One of the difficulties, as I said, is if certain sectors are exempted. Then, I pointed out, in the case of the hotels, they are not covered as of now. So, some suppliers who might be covered by the VAT do not issue receipts anymore to the hotels when they supply goods and services because the hotels are not covered by the VAT.

Senator Maceda: Now, for the record — and I guess the Gentleman has received a copy also — I have here a document sent to us by former Sen. Ambrosio Padilla opposing Senate Bill No. 1630. Has the distinguished Sponsor read this?

Senator Herrera: Mr. President, I think it has something to do with the real estate developers. They have been very active in the hearing. They sent us also their position papers.

What I can say, Mr. President, is that during the period of amendments, we will look into that.

There is also the other side of it, Mr. President. I think it is about time that we included them also in the coverage. But let us take that up during the period of amendments.

Senator Maceda: Mr. President, I join Senator Sotto, Senator Revilla and Senator Webb in pointing out that the movie industry as a whole has been overtaxed, to a point where the problem of quality of films is directly related to the fact that the accepted norm is that out of every 10 local movies produced, only two or three make money, and I am afraid that removing subsection (O) from the exempt list is not going to help improve the movie industry; it is not going to help improve the quality even of television and radio-programming.

So, would the Gentleman in the period of amendments be sympathetic to an amendment that will be presented along this line jointly by Senator Revilla and Senator Sotto?

Senator Herrera: Mr. President, I am always sympathetic to the movie industry and one of the reasons is that, I know of the Gentleman's undying obsession to become an actor one day. So

I am open to proposals.

Senator Maceda: That is correct, Mr. President, I have been trying to be an actor, but the problem is, I am too candid, frank, forward, and too honest in my dealings that I cannot really act, I cannot go into make-believe. As the song goes, I am what I am and you have to take me for what I am.

Senator Herrera: Mr. President, I am sorry to disagree with the Gentleman because I firmly believe and support the statement of the Senate President that he has limitless talent,

Senator Maceda: Mr. President, I will certainly look around for some dramatic school or dramatic coach, and I would like to recommend the same to the Senate President, because it seems that these days for one to have any chance of being elected Vice President or President of this country, he has to go into the movie industry.

Senator Herrera: Now, I am correct in my assessment that the Gentleman has an undying obsession to become an actor.

Senator Maceda: Well, Mr. President, I join Senator Mercado in that obsession. I am just a little envious of him because he can really act on that obsession for the simple reason that he is now a full-fledged bachelor again.

So, Mr. President, again, in the spirit of the Lenten Season, and so that the Senate President can comply with his commitments to the President of the Philippines, I terminate my interpellations with some hesitation. But, after all, there will be other days, there will be other times for us to discuss this matter of tax measures.

I sincerely believe that part of the problem really — and I am happy that the Gentleman agrees with me, and with due respect to the Assistant Secretary of Finance who is here — is that, we have very poor support from the Executive Department in terms of just the appropriate and sufficient information, fundamental information that must be presented to us, for us to be able to come to a well-informed judgment on the measures that are certified or the priority measures that are sent to us.

I will just use one example. If the Gentleman will recall, the Finance Department sent a bill; the House passed a bill where it imposed a 100 percent documentary stamp tax on horse-racing tickets.

Can he imagine sending us a 100 percent documentary stamp tax? *Wala nang natira roon sa itinaya noong bettor, and eventually, we had to cut it down to 10 percent. But that was as*

clear an example as any, as I said, of the fact that many of these tax measures are not well-studied by the Executive Department. Therefore, it devolves upon us, as the last resort, to really discuss these measures well and see to it that these imperfections are not allowed to pass.

I thank the Gentleman very much, Mr. President for his patience and kindness.

Senator Herrera: Thank you also, Mr. President. I would like to assure the Gentleman that after 1998 during "President" Maceda's Administration, the staff will help him in his administration.

The President: The Chair wishes to thank Senator Maceda for his thoughtfulness. But let me state for the record that the commitment to pass this bill is not a personal commitment. It was a commitment we made in caucus with the President. And the commitment really is not to the President. It is a commitment to our country.

As Senator Herrera says, unless we also increase the revenue base of this country, we will have no hope of funding the reforms in education, the increase in veterans' pay — some of our veterans are in the Hall now—the increase in salary scale of our people in government and in the military, and the other social entitlements that we, in the Senate, always want to sponsor.

So, this is really not for President Ramos, not for us. This is intended to support the momentum of growth and development we all want to keep going in our country.

Senator Tañada: Mr. President.

The Minority Leader is recognized.

Senator Tañada: Thank you, Mr. President.

I would like to continue with my interpellation, which I started last Tuesday.

Senator Herrera: Mr. President, I recall that during the interpellation by the future Congressman from the 4th District of Quezon Province, I mentioned the basis for the estimate of the relationship between the VAT and the gross domestic product of France. The basis for that is the International Financial Statistics, and I would like to provide the Gentleman a copy of the statistics.

Senator Tañada: Thank you, Mr. President.

Mr. President, on page 2 of the bill, No. 3, "GOODS OR PROPERTIES" are defined and then on page 5 of the bill, No. 9, "SALE OR EXCHANGE OF SERVICES" are also defined.

My reading of the two proposed definitions seems to point out that, insurance premiums are not to be subjected to the Value Added Tax. This is supported by the proposed paragraph (j), page 19 of the bill, which seeks to exempt "Services subject to percentage tax under Title V EXCEPT DEALERS IN SECURITIES AND LENDING INVESTORS."

A reading of Section 121 under title V of the National Internal Revenue Code, Mr. President, would show that there are certain insurance premiums exempted from the percentage tax imposed under Title V, specifically Section 121, and among the insurance premiums exempted from the percentage tax are the following:

- 1) insurance premiums collected by purely cooperative insurance companies or associations;
- 2) premiums refunded within six months after payment on account of rejection of risk or returned within six months for other reasons to an insured;
- 3) premiums collected or received on account of any reinsurance under certain circumstances; and
- 4) upon that portion of the premiums collected or received by the insurance companies on variable contracts in excess of the amount necessary to insure the lives of the variable contract workers.

May we know, Mr. President, whether insurance premiums exempted from the percentage tax under Section 121, Title V of the National Internal Revenue Code would now be subject to the value-added tax, considering the provisions of paragraph (V), page 21 of this bill?

Senator Herrera: The idea, Mr. President, is to include this under the coverage of VAT.

Senator Tañada: So, this would no longer be exempted?

Senator Herrera: As of now, this is exempted.

Senator Tañada: Yes. And the bill that we are now considering will be taking away that exemption?

Senator Herrera: In the bill now, these are exempted. But in the Committee amendments subject, of course, to further

consultations, I would like to cover this under VAT in order to make it as comprehensive as possible. But that is something that we can take up during the period of amendments.

Senator Tañada: So, the Sponsor is still open on this matter?

Senator Herrera: Definitely, Mr. President. In fact, the Gentleman will note that it is not included in the bill.

Senator Tañada: Thank you, Mr. President.

Now, moving on to paragraph (r), page 20 of the bill, in relation to paragraph (v) on page 15...

Senator Herrera: What paragraph on page 20, Mr. President?

Senator Tañada: Paragraph (r). Now, paragraph (r) of page 20 of the bill deletes the exemption granted under special laws, and under paragraph (v) on page 15, those considered as export sales under Republic Act No. 6938 in favor of agricultural cooperatives are mentioned.

Are we to understand, Mr. President, that the beneficent provisions of Republic Act No. 6938, specifically Article 61 which refers to tax treatment of cooperatives, and Article 62 which refers to tax and other exemptions, are now to be withdrawn by paragraph (r) appearing on page 20 in relation to paragraph (v) on page 15 of the bill?

Senator Herrera: Mr. President, as regards paragraph (r) on page 20, the bill would like to include services performed in the exercise of profession or calling to be included in the coverage of VAT. However, among the proposals which will be submitted during the period of amendments is to raise the threshold level which right now is P200.00. Although the Secretary of Finance is given the latitude to decide from P100,000 to P500,000, we would like it to be specific in the law that that will be raised to a higher amount because we feel that the last time the P200,000 was established in 1988, the purchasing power of the peso has been eroded for several percentage points and, therefore, we have to raise that. One of the proposals is to raise that to the minimum of P500,000. If one is earning P500,000 or below, he will be outside the coverage of the VAT.

Now, with regard to cooperatives, Mr. President, there is no intention to cover that under the VAT.

Senator Tañada: So, the exemption that has been given to the cooperatives under RA No. 6938 would remain, Mr. President?

Senator Herrera: Yes, Mr. President.

Senator Tañada: I am glad to hear that, Mr. President. I am sure the distinguished Gentleman also received a letter from the Cooperative Union of the Philippines where they made an appeal that the proposal to take away their tax exemption privileges given to them under RA No. 6938 be not approved by the Senate.

The cooperatives are saying that they have barely made use of this privilege on account of the very infant movement that they have. They are asking that the 25,000 cooperative organizations be given a chance to grow. I am glad to hear from the Sponsor that we are responding favorably to the request of the cooperatives, Mr. President.

Senator Herrera: Frankly, Mr. President, as I have been saying, to make the VAT really effective as much as possible, all should be covered. And, if at all we have to give support to a certain sector, it should be in the form of a deferment.

Senator Tañada: We can say that they are still in an infant stage. They have just started to enjoy the benefits given to them under RA No. 6938. We can see that there is now a momentum leading to their positive and progressive development. I would not really be in favor of taking away these exemptions which they are enjoying at this stage.

Mr. President, would the definition of "GOODS" and "PROPERTIES" under No. 3, page 2 of the bill, include coffin, memorial plots, memorial services, and the like? If it does, would this not certainly bring about an increase and give more truth and substance to what we have been hearing very often with respect to the high cost of dying that our people now are experiencing?

Senator Herrera: Mr. President, it is good that the distinguished Gentleman pointed that out. I, for one, would like to make it very clear that the cost of dying should not be included here.

Senator Tañada: So this definition provided in No. 3, page 2, would not include coffins, memorial plots, and funeral services, Mr. President.

Senator Herrera: Mr. President, that is why I said I appreciate that the Gentleman has brought up this matter because then it will be spread on the *Record*. So in the preparation of the implementing rules, the Department of Finance will consider that sentiment of the Senate, that we do not want to include the cost of coffin and anything related to the cost of dying.

Senator Tañada: Thank you, Mr. President.

The definition of intangible objects, under the third paragraph of No. 3, page 5 of the bill, includes "the right or the privilege to use patent, copyright, et cetera, as well as the right or the privilege to use in the Philippines of any industrial, commercial or scientific equipment."

On the other hand, No. 9, page 5 of the bill, specifically Nos. (1), (2) and (3), includes as taxable sale or exchange of services, (1) the lease or the use of or the right or privilege to use any copyright, patent, design or model, plan, secret formula or process, et cetera; (2) the lease or the use of, or the right to the use of any industrial, commercial or scientific equipment; and (3) the supply of scientific, technical, industrial or commercial knowledge or information.

Would the imposition of VAT on these services not discourage technology transfer, Mr. President? Would this not result further in higher production cost which ultimately would be passed on to the consumer?

Senator Herrera: Mr. President, the person who will be liable to this is the one who engages in the trading of this patent, not the one who discovered the invention. I do not think that this will discourage the transfer of technology of new invention, in the sense that if we will really compute it later, the cost for one who will be buying this will not be so much because of the crediting on the input tax.

Senator Tañada: But would it not result in higher production costs?

Senator Herrera: Very minimal, if at all, will it have impact, Mr. President. In fact, the duty of the VAT, unlike other forms of taxes, will not result in the integration of the cost of VAT in the production.

Senator Tañada: Under the National Internal Revenue Code, authors and other owners of intellectual creation are supposed to be paying a 20 percent tax. This is under Section 21, subsection (c), paragraph 1 of the NIRC. So, royalties earned by authors and other owners of intellectual creation are liable to a 20 percent tax.

Are we not discouraging our literary, scientific and other authors who are copyright holders, as well as our investors who are patent holders, by further adding the 10 percent value-added tax, considering that they are already subject to the 20 percent tax on their passive income?

Senator Herrera: Mr. President, the authors or the inven-

tors or the artists are exempted, but the person who will be trading, making business out of their invention are the ones covered. I would like to assure the distinguished Gentleman that they will not be paying additional tax, Mr. President.

Senator Tañada: Thank you, Mr. President.

Now, on the matter of prawn feeds, may we be advised if prawn feeds are included in the exemption provided under paragraph (c) of page 5 of the bill.

Senator Herrera: Yes, Mr. President. It will be exempted.

Senator Tañada: How about the sale or importation of pesticides and herbicides, chemicals for the formulation of pesticides?

Senator Herrera: Right now, it is exempted, Mr. President. But the proposal, as indicated in the bill, is to include it under the VAT.

Last night, there was a heated debate on this issue whether this will have an impact on the production of our agricultural sector.

Senator Tañada: Yes, Mr. President.

Senator Herrera: The idea of including this is because of the program now of the Government to encourage a sort of universal pest management where the use of chemicals or insecticides is discouraged and the use of what we term as organic insecticide is encouraged. But, personally, I really do not have a strong feeling about this. If further verification will prove that this might have a tremendous impact on our agricultural production, then we can include this among those that will be deferred.

Senator Tañada: So, we will propose the amendment when we enter in the period of amendments, Mr. President.

Senator Herrera: Yes, Mr. President.

Senator Tañada: Mr. President, the enumeration of exempt transactions under the proposed Section 6, amending Section 103, found on pages 16 up to 21 of the bill does not seem to include various articles which, under Title VI of the NIRC are subject to excise taxes. Among these items subject to excise taxes under Title 6 of the NIRC are alcohol products like distilled spirits which include gin, brandy and rum; wines, fermented liquor such as beer; tobacco products like cigars and cigarettes, fireworks and mineral products.

May we know, Mr. President, if it is the intention of the bill for these articles to be subject not only to the payment of excise taxes but also value-added taxes as well.

SUSPENSION OF THE SESSION

Senator Herrera: Mr. President, may we ask for a one-minute suspension of the session?

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

It was 11:21 a.m.

RESUMPTION OF THE SESSION

At 11:22 a.m., the session was resumed.

The President: The session is resumed.

Senator Herrera: Mr. President, under the VAT, they are already covered.

Senator Tañada: And so, are they now being...

Senator Herrera: Deleted?

Senator Tañada: No, Mr. President. Are they now paying excise taxes, in addition to the value-added tax?

Senator Herrera: That is my understanding, Mr. President, since they are already under the VAT coverage.

At this juncture, the Senate President relinquished the Chair to the Senate President Pro Tempore.

Senator Tañada: On page 18, paragraph (g), we note that the importation of aircraft and spare parts are not included under the exempt transactions, while on the other hand we note that vessels are included among the exempt transactions under paragraph (g), page 18.

May we know why there is this difference in treatment?

Senator Herrera: If we recall, Madam President, in paragraph (g), we passed a law providing incentives to sea transportation. And consistent with that, what we are now exempting from the coverage is the importation of passenger or cargo vessel of more than 10,000 tons. Because under that law, if I am not mistaken, there were incentives that we gave to shipping industries.

As to the second point that the Gentleman raised regarding purchase of planes and aircraft and spare parts, they are covered.

Senator Tañada: They are covered by the VAT, and therefore, not exempted.

Senator Herrera: They are not exempted, Madam President.

Senator Tañada: Moving on to another point, Madam President, would it not be in keeping with our desire to promote our people's health if importation and sale of medical, dental and hospital equipment are likewise exempt transactions? In the same manner that under paragraph (l), page 19 —

Senator Herrera: The medical, dental, hospital...

Senator Tanada: — medical, dental, hospital and veterinary services are supposed to be exempt transactions.

Senator Herrera: They are already exempted, Madam President, but the businessmen whose business is to sell medical equipments are not exempted.

Senator Tañada: So importation of medical, dental and hospital equipment by the hospital would not be covered by this bill?

Senator Herrera: I suppose so, but the one who is selling these should be covered.

Senator Tañada: On page 20, paragraph (r), is it correct to say that with the proposed deletion of this paragraph, professionals would now be required to register as persons subject to VAT?

Senator Herrera: To those who will be earning above the threshold that we will establish during the period of amendments, Mr. President.

Senator Tañada: So there is no determination yet as to how much would this threshold be, Mr. President?

Senator Herrera: Right now, the existing threshold is P200,000. I feel that it should be reviewed and raised to a higher level, considering that this was established in 1988.

Senator Tañada: Considering that there is this Republic Act No. 7496 which adopted the Simplified Net Income Taxation Scheme, are we not going to penalize our professionals and drive them even more to, if not evade, avoid taxes due to the imposition of the VAT?

Mr. President, have we considered that professionals are not anymore allowed to deduct taxes from their gross income to arrive at their income subject to tax by virtue of Section 5 of Republic Act No. 7496, amending the opening paragraph 4 of Section 29 of the National Internal Revenue Code?

Let us say that the threshold is increased to P500,000, is there no intention to consider that whatever the professionals would pay under this refined VAT, that it be deductible from their taxable income?

Senator Herrera: The income tax is based on net income which is on gross, Madam President.

Senator Tañada: No, but right now, professionals are not allowed to deduct from their gross income the other taxes that they pay.

Senator Herrera: Yes, but we have also reduced the percentage in a way. Those who are covered by the SNITS are really benefited first, because of the reduction of the rate, unlike those who are in the category of being employed where they are paying a higher rate, that is why there is a question of equity now.

Second, we are also raising the threshold, and I would say that over 80 percent of the professionals might not be covered by the VAT by raising the threshold.

Third — and I think the Gentleman will agree with me — that for one who is in the category to pay taxes to the Government, that should not be considered a penalty but an opportunity to help the country.

Senator Tañada: One final point, Madam President. The Gentleman stated in his Sponsorship Speech that under this restructured VAT, at least P2 billion of incremental revenues would be generated.

Senator Herrera: That is a very conservative estimate, Madam President.

Senator Tañada: Considering that the estimates of the Department of Finance as cited by the Gentleman, indicate that for the year 1992, an estimated P32.24 billion of potential VAT remains uncollected, in the light of this information, Madam President, coming from the Department of Finance, would there really still be a need to restructure the VAT to collect an additional P2 billion when a potential collection of P32.24 billion could be collected through more intensified efforts?

Senator Herrera: Madam President, I am glad the Gentleman again raised this issue because I will have the opportunity

to clarify it. The P63.78 billion included already the estimate based on the refinement provision of the bill.

Senator Tañada: May I have that again, Madam President?

Senator Herrera: The P63.78 billion as a potential revenue included already the estimate based on the refinement provision of the bill. What we are trying to convey in this sponsorship speech is that the existing VAT has several flaws. It will be able to correct this. The potential revenue will be P63.78 billion.

Senator Tañada: That is all, Madam President. I thank the Sponsor for his forthright answers.

Senator Herrera: Thank you, Madam President.

Once again, I look forward to our Senator becoming the Congressman from the Fourth District of Quezon Province.

Senator Webb: Madam President.

The President Pro Tempore: Senator Webb is recognized.

Senator Webb: Madam President, will the Gentleman yield for just one or two very important questions?

Senator Herrera: Gladly, Madam President.

Senator Webb: It was mentioned a while ago that the Gentleman might rethink his position to exempt actors and actresses. Along that line.

Senator Herrera: May I just immediately correct what I said? What I said is that we shall defer the coverage.

I would like to emphasize, Madam President, that the main idea is to make the VAT refinement as comprehensive as possible in order to make it very effective. And this will be followed later by the abolition of certain tax measures in order that we can simplify our tax system. So it is not exemption. It is merely a deferment.

Senator Webb: I thank the Gentleman for that explanation, Madam President.

I hope the Gentleman will agree with what was mentioned by Senator Maceda and that is, to exempt actors and actresses on a deferment basis. That is found on letter (o) of page 19. But right after letter (o) is letter (p) and it says, "Services performed as professional athletes."

Senator Webb: Let me explain why I would want very much that professional athletes be also exempted.

Senator Herrera: Deferred, Madam President.

Senator Webb: Deferred. Forgive me for using the word "exemption."

I have been an athlete almost throughout my life, Mr. President — one who played in the PBA which was born in 1975. At that time, most of the athletes who were in the blooming stage were getting minimal salaries on a contract basis.

Madam President, athletes in the PBA — out of eight teams, each team having 15, 16 up to 20 players — number approximately 160. But not all of them have the same contracts. Some have contracts that can be said to be on a daily basis, on a monthly basis, or on a per game basis, and some even have contracts all the way to five years.

We cannot compare athletes with actors and actresses because athletes have a limited span of playing ability. At the age of 36, 38 — and the most is 40 — one usually retires, except, probably, for a phenomenal athlete like Jaworski who, at the age of 48, is still playing.

My point is, given that life span when one enters the PBA — Because we are talking of professional athletes and this would now cover the Professional Basketball Association of the Philippines. They start at the age of 21, which I am not in favor of. I honestly believe that the PBA should pick up the athletes at the age of 23, so that at age 21 and 22, the best are still playing, as far as amateur is concerned, for the national team. That is another subject to discuss.

At the age of 23, the good ones, the so-called "better players or the best" from the amateur are brought up to the ranks of professional basketball players. They can only play, Mr. President, up to 15 years. That would be their ability — 15 years of playing in the PBA. If we add another burden, a 10 percent VAT, I could not imagine what would happen. Their future is, I would say, "strike while the iron is hot." "Habang mainit pa ay nag-iipon ang mga batang iyan. At hindi po madaling maghanap ng trabaho matapos maglaro sa PBA. Most of them end up in retirement. There is a possibility that they can get injured. A lot of them, as we will notice, are in the injury list.

My point, Madam President, is — I would not like to prolong this line of questioning — hopefully, the Gentleman could also defer coverage of professional athletes. When we talk of professional athletes, we are not only talking of professional basketball players. We are talking of boxers, tennis players,

bowlers, particularly boxers. Maliit lamang ang kinikita nila. Kung papatungan pa natin ng 10 percent, wala na pong matitira riyon. So, I am asking for the Gentleman's good judgment to defer also the professional athletes, if we may, Mr. President.

Senator Herrera: I thank the Gentleman for his very enlightening comments, Madam President. I think he is helping us in educating ourselves about the peculiarities of professional athletes.

As I mentioned earlier, there will be a threshold. So that those who will be earning less than P500,000 — if that will be the threshold — will not be covered.

Certainly, as to the matter of deferment, we look at it with sympathy, Mr. President. But let me also present the other side. I think it is not all that depressing after the good years have elapsed. Many of them have also become actors. Some of them have become Senators. So, it is not really that depressing.

Senator Webb: If one has to do it, it needs some good luck also.

Senator Herrera: Talents have its rewards.

Senator Webb: That is true, Mr. President. But looking at most of the list of the players who are now in the players' union that was organized about a month ago, very few really have gone up the ranks. Most of them are even unemployed. Some are looking for jobs in different agencies of the Government — even in PAGCOR. I have recommended some of them to work there sapagkat wala silang makuhang trabaho. Kapag nagretiro kayo sa edad na 36, hindi madaling maghanap ng trabaho.

Senator Herrera: I agree with the distinguished Gentleman, Madam President.

Senator Webb: And the other thing, Madam President, is, if we are now looking at that possibility of putting a category — for instance, the Gentleman has mentioned that P500,000 and below will be exempted — I am also looking at the possibility of giving rewards to those who will play for our national team. But even if one earns more than that, if he plays for the national team, then this could be a good incentive for us to give him an exemption or a deferment. Sapagkat napakahirap ngayong paglaruin ang isang manlalaro para ilaban ang ating bayan sa ibang palakasan. Ang nangyayari nito, ang unang itatanong — ang karamihan ay nagtatanong din — "Ano bang ibibigay sa akin kapag ako ay naglaro para sa ating pamahalaan o sa ating bayan?" Hindi magandang pakinggan iyon.

Ngunit kung magagawan natin ng paraan na mabigyan ng

insentibo ang mga manlalarong ito na tinatawag nating members of the so-called elite of the national team, it could be a strong point for them now to rethink their position and at the same time add muscle to our team which has lost a lot of prestige because a lot of the good ones would rather stay behind and play for the PBA than represent our country.

I am just saying that, in the period of amendments, I might be able to come up with a proviso that would state that those who will play for the national team should be exempted from the VAT.

Maraming salamat po.

Senator Herrera: Should be deferred. Thank you.

Senator Biazon: Madam President.

The President Pro Tempore: Senator Biazon is recognized.

Senator Biazon: Thank you, Madam President.

Because of time constraint, I propose that the concerns and issues I am going to raise be stated in conceptual form rather than referring to individual provisions of this proposed bill.

Madam President, the Government's housing program for more than three million homeless families or about 16 million Filipinos who need decent roofs over their head cannot seem to take off the ground because the available resources are not being met.

Presently, our Committee on Urban Planning, Housing and Resettlement is putting together a concept to provide for solutions to this basic problem that has been nagging this country for so many decades. Part of the solutions being looked at is to lower the cost of the individual dwelling units within the affordability of our low-salaried government and private sector workers. We are looking at three component costs of these dwelling units — cost of money, cost of construction, and cost of land acquisition and development.

If there is no provision incorporated in this proposed law, all of these three component costs of the dwelling units will be hit very badly and, therefore, set back the Government's program of providing decent shelters for millions of homeless Filipinos. Especially, we are looking at those who are living precariously, hanging under the bridges, on the banks of rivers and along the railroad tracks. If we allow this law to be passed without incorporating special considerations to this special program of the Government, we may never be able to answer the needs of

these millions of Filipinos.

Since the law makes reference to sale or lease of properties, will the Gentleman agree to a proposition that certain exemptions be made in reference to socialized housing level, all the way up to the low-cost housing level?

Senator Herrera: Socialized housing is already exempted, Mr. President. It is in the bill.

I am glad that the Gentleman raised this point because if we will recall, even in the documentary stamp tax, we put a proviso that part of the incremental tax be allocated or earmarked for mass housing. I am also thinking along that line.

As far as exempting them from the coverage of the VAT is concerned, they are already exempted. On the other hand, this can even be a source of funding for the Gentleman's concern for mass housing.

Senator Biazon: Mr. President, in all of the housing programs of the Government, there seems to be a confusion on the stratification of the sectors that need to be assisted as far as acquisition of a decent shelter is concerned.

What the Government refers to now as socialized housing, in actuality, is really low-cost housing. There is nothing in the program of the Government which really fits the description of the needs on the ground. What we say as socialized housing in actuality is low-cost housing.

Madam President, allow me, if I may, to put a clearer picture of this.

The so-called low-cost housing that we are providing our people now is ranging from P150,000 to P350,000 a unit. For every P100,000 loan one takes out from any government or private financing institution, the rule of thumb is, one has to amortize for P1,000 a month.

If indeed the low-cost unit is P150,000 taken at present rate, then a teacher who is earning a minimum of P3,200 a month, well almost below the poverty line of P6,800 at present rate, will have to amortize P1,500 a month; therefore, there is only P1,700 left for him to attend to the medicine, schooling and clothing of his family.

I am referring to these figures because it is important for us to define the levels where assistance is needed.

Senator Herrera: The Gentleman's comments on this issue are lifted from the *Journal and Record* of the debates in this

particular bill. I am very sure that when implementing rules will be issued by the Department of Finance, his very enlightening opinion on this matter will be considered. But let me assure the Gentleman that in concept and in principle, mass housing shall be outside of the VAT.

Senator Blazon: Madam President, at the proper time, when the concern for socialized or low-cost housing needs of our people is properly inserted or incorporated in this proposed bill, either through individual or Committee amendments — I would prefer it to be Committee amendments — then I will end my interpellation at this point in time.

Senator Herrera: In fact, Madam President, it is already in the bill.

Senator Blazon: Thank you, Madam President.

Senator Mercado: Madam President.

The President Pro Tempore: The Majority Leader is recognized.

Senator Mercado: I move that we close the period of interpellations on Senate Bill No. 1630.

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

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1630

Senator Mercado: Madam President, I move that we suspend consideration of Senate Bill No. 1630.

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

SUSPENSION OF THE SESSION

Senator Mercado: Madam President, may I ask for a one-minute suspension of the session?

The President Pro Tempore: The session is suspended, if there no objection? [There was none.]

It was 11:52 a.m.

RESUMPTION OF THE SESSION

At 11:53 a.m., the session was resumed.

The President Pro Tempore: The session is resumed.

The Majority Leader is recognized.

CONFERENCE COMMITTEE REPORT ON SENATE
BILL NO. 1623/HOUSE BILL NO. 10606
(Old Age Pension/Veterans' Benefits)

Senator Mercado: Madam President, I move for the consideration of the Conference Committee Report on the disagreeing provisions of Senate Bill No. 1623 and House Bill No. 10606, entitled,

AN ACT AMENDING CERTAIN SECTIONS OF
REPUBLIC ACT NO. 6948 OTHERWISE
KNOWN AS "AN ACT STANDARDIZING AND
UPGRADING THE BENEFITS FOR MILITARY
VETERANS AND THEIR DEPENDENTS

and

AN ACT INCREASING THE MONTHLY OLD-AGE
PENSION OF VETERANS AND THEIR
DEPENDENTS FROM FIVE HUNDRED PESOS
(P500.00) TO ONE THOUSAND PESOS
(P1,000.00), AMENDING FOR THE PURPOSE
SECTION 10 OF REPUBLIC ACT NO. 6948
ENTITLED: "AN ACT STANDARDIZING AND
UPGRADING THE BENEFITS FOR MILITARY
VETERANS AND THEIR DEPENDENTS".

SPONSORSHIP SPEECH OF SENATOR MERCADO

The panel composed of Senators Alberto Romulo, Rodolfo Biazon, Raul Roco, Wigberto Tanada, and this Representation met with its counterpart composed of Congressmen Badelles, Gillego, Valdez, Cerilles, De Leon, and Bagatsing.

We had one meeting, and we would like to report to the Body that the Conference Committee was easily approved.

We adopted the Senate version, and we incorporated therein the following amendments as proposed by the House Panel:

The first amendment is that the new old-age monthly pension rate shall be increased yearly starting in 1995 by P500 until the same becomes P5000 per month. This is embodied in Sections 10 and 11 of RA No. 6948.

The other amendment, Madam President, is that the ranges for disability rating were made more specific, and that the PVAO Administrator, instead of entering into agreements with selected hospitals for the establishment of veterans wards, is now

afternoon for these specific items which they are vitally interested in.

Senator Mercado: Madam President, we are going to resume consideration of Senate Bill No. 1630, the measure on VAT Refinements; Senate Bill No. 1606, Liberalizing the Entry of Foreign Banks; Senate Bill No. 1237, the Anti-Pilferage Act; and Senate Bill No. 1677 as well as Senate Bill No. 1406.

The President Pro Tempore: Is it in that order, Mr. Majority Leader?

Senator Mercado: Yes, Madam President. We are going to discuss as well or approve the Conference Committee Report on the BOT measure.

The President Pro Tempore: So, do I take it that the first item in the agenda will be the VAT Refinements and then the Liberalization of the entry of foreign banks?

Senator Mercado: Yes, Madam President.

SUSPENSION OF THE SESSION

The President Pro Tempore: Thank you.

The session is suspended until four o'clock this afternoon, if there is no objection. [There was none.]

It was 12:13 p.m.

RESUMPTION OF THE SESSION

At 4:53 p.m., the session was resumed with Senate President Edgardo J. Angara, presiding.

The President: The session is resumed.

CONFERENCE COMMITTEE ON
SENATE BILL NO. 1127/HOUSE BILL NO. 9187
(Increasing the Stock Transaction Tax)

Senator Romulo: Mr. President, to compose the Senate Panel on the disagreeing provisions of the Senate and House bills on the Stock Transaction Tax, I move that the following Senators be named: Senators Herrera, Aquino, Maceda, Ople and Tañada.

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

BILL ON SECOND READING
Senate Bill No. 1630 - VAT Refinements
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 1630 as reported out under Committee Report No. 349, the VAT Refinements bill.

The President: Consideration of Senate Bill No. 1630 is now in order.

Senator Romulo: We are now in the period of Committee amendments. I ask that the Chairman of the Committee on Ways and Means, Senator Herrera, be recognized.

Senator Herrera: Thank you.

Mr. President, we have the following Committee amendments:

On page 2, line 1, insert the following capitalized paragraph:

"2. FINANCE LEASE - A CONTRACT INVOLVING PAYMENT OVER AN OBLIGATORY PERIOD (ALSO CALLED PRIMARY OR BASIC PERIOD) OF SPECIFIED RENTAL AMOUNTS FOR THE USE OF A LESSOR'S PROPERTY, SUFFICIENT IN TOTAL TO AMORTIZE THE CAPITAL OUTLAY OF THE LESSOR AND TO PROVIDE FOR THE LESSOR'S BORROWING COSTS AND PROFITS. THE OBLIGATORY PERIOD REFERS TO THE PRIMARY OR BASIC NON-CANCELLABLE PERIOD OF THE LEASE WHICH IN NO CASE SHALL BE LESS THAN 730 DAYS. THE LESSEE, NOT THE LESSOR, EXERCISES THE CHOICE OF THE ASSET AND IS NORMALLY RESPONSIBLE FOR MAINTENANCE, INSURANCE AND SUCH OTHER EXPENSES PERTINENT TO THE USE, PRESERVATION AND OPERATION OF THE ASSET. FINANCE LEASES MAY BE EXTENDED, AFTER THE EXPIRATION OF THE PRIMARY PERIOD, BY NON-CANCELLABLE SECONDARY OR SUBSEQUENT PERIODS WITH RENTALS SIGNIFICANTLY REDUCED. THE RESIDUAL VALUE SHALL IN NO INSTANCE BE LESS THAN FIVE PERCENT (5%) OF THE LESSOR'S ACQUISITION COST OF THE LEASED ASSET."

That is the amendment, Mr. President.

The President: That will be on what line?

Senator Herrera: That is before line 1 on page 2, Mr. President.

The President: Is there any objection to the amendment?

[*Silence*] There being none, the amendment is approved.

Senator Herrera: On page 2, line 1, replace figure "2" with figure "3."

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

Senator Herrera: On page 2, line 10, replace figure "3" with figure "4."

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

Senator Herrera: On page 3, line 17, replace figure "5" with figure "6."

MOTION OF SENATOR ANGARA

The President: What about figure "4"? We will just make an omnibus motion to have the figures renumbered accordingly.

Senator Herrera: Can we approve that, Mr. President?

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

Senator Herrera: On page 5, line 14, after the semicolon (;), insert the following capitalized words:

DEALERS IN SECURITIES; LENDING INVESTORS; OPERATORS OF TAXICABS, UTILITY CARS FOR RENT OR HIRE DRIVEN BY THE LESSEES (RENT-A-CAR COMPANIES), TOURIST BUSES; TRUCKS, OCEAN VESSELS. INTER-ISLAND SHIPS, AIRCRAFT, AND OTHER COMMON CARRIERS RELATIVE TO THEIR TRANSPORT OF GOODS OR CARGOES; TELEPHONE SERVICES (EXCEPT WHEN RENDERED IN FAVOR OF DIPLOMATIC SERVICES, INTERNATIONAL ORGANIZATIONS, AND NEWS SERVICES); SERVICES OF BANKS, NON-BANK FINANCIAL INTERMEDIARIES, FINANCE COMPANIES, AND OTHER FINANCIAL INSTITUTIONS; AND NON-LIFE INSURANCE COMPANIES (EXCEPT THEIR CROP INSURANCES).

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

Senator Herrera: On page 5, line 15, replace the capitalized word "SIMILAR" with the capitalized word "OTHER."

The President: Is there any objection to the amendment?

[*Silence*] There being none, the amendment is approved.

Senator Herrera: On page 7, line 6, replace the figure "10" with figure "11."

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

Senator Herrera: On page 19, line 4, after the Roman numeral "V", delete the capitalized phrase "EXCEPT DEALERS IN."

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

Senator Herrera: On page 19, line 5, delete the capitalized words "SECURITIES AND LENDING INVESTORS".

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

Senator Herrera: On page 20, line 1, capitalize the parenthesized letter "(o)."

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

Senator Herrera: On page 20, line 10, capitalize the parenthesized letter "(p)".

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

Senator Herrera: On page 20, line 12, capitalize the parenthesized letter "(q)".

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

Senator Herrera: On page 20, line 19, capitalize the parenthesized letter "(r)".

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

Senator Herrera: On page 20, line 22, capitalize the parenthesized letter "(s)".

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

On page 21, line 17, replace the capitalized words "ONE

HUNDRED” with the capitalized words “THREE HUNDRED FIFTY”.

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

Senator Herrera: By the way, Mr. President, this is an amendment of Senator Sotto. On page 21, line 18, replace the capitalized words “FIVE HUNDRED” with the capitalized words “SIX HUNDRED”.

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

Senator Herrera: This is also an amendment of Senator Sotto. On page 22, after line 22, insert the following capitalized paragraph:

“PROVIDED, THAT AGRICULTURAL PROCESSORS SHALL BE ALLOWED A PRESUMPTIVE INPUT TAX ON AGRICULTURAL PRODUCTS IN THEIR ORIGINAL STATE WHICH THEY USE AS RAW MATERIALS IN ACCORDANCE WITH THE RULES AND REGULATIONS PROMULGATED BY THE SECRETARY OF FINANCE. FOR THIS PURPOSE, AGRICULTURAL PROCESSORS REFER TO PRODUCERS WHO USE AGRICULTURAL PRODUCTS IN THEIR ORIGINAL STATE IN THE MANUFACTURE OF GOODS: PROVIDED, LIKEWISE, THAT IN THE CASE OF FINANCIAL LEASES, WHERE CAPITAL GOODS ARE PURCHASED OR IMPORTED BY A FINANCE COMPANY ORGANIZED UNDER REPUBLIC ACT NO. 5980, WHICH GOODS ARE SUBSEQUENTLY LEASED TO A VAT-REGISTERED PERSON AT WHOSE INSTANCE SAID GOODS WERE PURCHASED OR IMPORTED, THE INPUT TAX ATTENDANT TO THE TRANSACTION SHALL ACCRUE TO THE LESSEE AND SHALL BE INDICATED AS SUCH IN THE SALES OR IMPORT INVOICE, WHICH INPUT TAX SHALL BE CREDITED AGAINST THE OUTPUT TAX PAYABLE BY SAID LESSEE.

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

Senator Herrera: On page 39, line 18, after the figures and comma symbol “114,” delete the word “and” and after the figure “116”, add the capitalized phrase “118, 119, AND 120”.

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

Senator Herrera: On page 39, after line 19, insert a new section 17 to read as follows:

“SEC. 17. THE FIRST PARAGRAPH OF SECTION 115 OF THIS CODE IS HEREBY FURTHER AMENDED TO READ AS FOLLOWS:

SEC. 115. PERCENTAGE TAX ON CARRIERS AND KEEPERS OF GARAGES.—KEEPERS OF GARAGES, [CARS FOR RENT OR HIRE DRIVEN BY THE LESSEE,] TRANSPORTATION CONTRACTORS, PERSONS WHO TRANSPORT PASSENGERS [OR FREIGHT] FOR HIRE, AND COMMON CARRIERS BY LAND, AIR OR WATER, RELATIVE TO THEIR TRANSPORT OF PASSENGERS EXCEPT OWNERS OF BANCAS AND OWNERS OF ANIMAL-DRAWN TWO-WHEELED VEHICLES, SHALL PAY A TAX EQUIVALENT TO THREE (3%) PER CENTUM OF THEIR QUARTERLY GROSS RECEIPTS.”

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

Senator Herrera: On page 39, before line 20, insert sections 18, 19 and 20 to read as follows:

“SEC. 18. THE FIRST PARAGRAPH OF SECTION 117 OF THIS CODE IS HEREBY FURTHER AMENDED TO READ AS FOLLOWS:

SEC. 117. TAX ON FRANCHISES — ANY PROVISION OF GENERAL OR SPECIAL LAW TO THE CONTRARY NOTWITHSTANDING, THERE SHALL BE LEVIED, ASSESSED AND COLLECTED IN RESPECT TO ALL FRANCHISE, UPON THE GROSS RECEIPTS FROM THE BUSINESS COVERED BY THE LAW GRANTING THE FRANCHISE, A TAX IN ACCORDANCE WITH THE SCHEDULE PRESCRIBED HEREUNDER:

- (a) ON ELECTRIC UTILITIES,
CITY GAS AND WATER
SUPPLIES TWO (2 %) PERCENT
- (b) ON [TELEPHONE AND/OR TELEGRAPH SYSTEM [S.] AND RADIO/OR BROADCAST-
ING STATIONS THREE (3%) PERCENT
- (c) ON OTHER FRAN-
CHISES FIVE (5%) PERCENT”

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

Senator Herrera: “SEC. 19. THE FIRST PARAGRAPH OF SECTION 121 OF THIS CODE IS HEREBY FURTHER AMENDED TO READ AS FOLLOWS:

SEC. 121. TAX ON LIFE INSURANCE PREMIUM. - THERE SHALL BE COLLECTED FROM EVERY PERSON, COMPANY; OR CORPORATION (EXCEPT PURELY CO-OPERATIVE COMPANIES OR ASSOCIATIONS) DOING LIFE INSURANCE BUSINESS OF ANY SORT IN THE PHILIPPINES A TAX OF FIVE PER CENTUM (5%) OF THE TOTAL PREMIUM COLLECTED, WHETHER SUCH PREMIUMS ARE PAID IN MONEY, NOTES, CREDITS OR ANY SUBSTITUTE FOR MONEY; BUT PREMIUMS REFUNDED WITHIN SIX MONTHS AFTER PAYMENT ON ACCOUNT OF REJECTION OF RISK OR RETURNED FOR OTHER REASON TO A PERSON INSURED SHALL NOT BE INCLUDED IN THE TAXABLE RECEIPTS; NOR SHALL ANY TAX BE PAID UPON REINSURANCE BY A COMPANY THAT HAS ALREADY PAID THE TAX; NOR UPON PREMIUMS COLLECTED OR RECEIVED BY ANY BRANCH OF A DOMESTIC CORPORATION, FIRM OR ASSOCIATION DOING BUSINESS OUTSIDE THE PHILIPPINES ON ACCOUNT OF ANY LIFE INSURANCE OF THE INSURED WHO IS A NON-RESIDENT, IF ANY TAX ON SUCH PREMIUM IS IMPOSED BY THE FOREIGN COUNTRY WHERE THE BRANCH IS ESTABLISHED NOR UPON PREMIUMS COLLECTED OR RECEIVED ON ACCOUNT OF ANY REINSURANCE, IF [THE RISK INSURED AGAINST COVERS PROPERTY LOCATED OUTSIDE THE PHILIPPINES, OR] THE INSURED [IN CASE] OF PERSONAL INSURANCE RESIDES OUTSIDE THE PHILIPPINES, IF ANY TAX ON SUCH PREMIUMS IS IMPOSED BY THE FOREIGN COUNTRY WHERE THE ORIGINAL INSURANCE HAS BEEN ISSUED OR PERFECTED; NOR UPON THAT PORTION OF THE PREMIUMS COLLECTED OR RECEIVED BY THE INSURANCE COMPANIES ON VARIABLE CONTRACTS (AS DEFINED IN SEC. 232 (2) OF PRESIDENTIAL DECREE NO. 612), IN EXCESS OF THE AMOUNTS NECESSARY TO INSURE THE LIVES OF THE VARIABLE CONTRACT WORKERS”.

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

Senator Herrera: “SEC. 20. DEFERMENT OF VAT ON CERTAIN GOODS AND SERVICES. - TAKING INTO ACCOUNT FACTORS SUCH AS ADMINISTRATIVE ADJUSTMENTS IN SHIFTING TO THE VALUE-ADDED TAX SYSTEM, PRESENCE OF CLEAR ADVERSE EFFECTS ON CERTAIN GOODS AND SERVICES, URGENT DEMANDS OF PUBLIC WELFARE, AND SUCH OTHER SIMILAR CONSIDERATIONS, THE PRESIDENT OF THE PHILIPPINES, UPON RECOMMENDATION OF THE SECRETARY OF FINANCE, MAY DEFER THE VAT ON CERTAIN GOODS AND SERVICES BUT IN NO CASE LONGER THAN THREE (3) YEARS FROM THE EFFECTIVITY OF THIS ACT.”

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

Senator Herrera: “PROVIDED, THAT SERVICES PERFORMED AS ACTORS AND ACTRESSES, TALENTS, SINGERS AND EMCEES; RADIO AND TELEVISION BROADCASTERS, CHOREOGRAPHERS; MUSICAL, RADIO, MOVIE, TELEVISION AND STAGE DIRECTORS; AND SERVICES PERFORMED AS PROFESSIONAL ATHLETES SHALL BE DEFERRED FOR A PERIOD OF THREE (3) YEARS FROM THE EFFECTIVITY HEREOF.”

Mr. President, this is an amendment proposed by Senators Sotto, Revilla, Webb, and Maceda.

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

Senator Herrera: On page 39, line 20, replace figure “17” with figure “21”.

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

Senator Herrera: On page 39, line 24, replace figure “18” with figure “22”.

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

Senator Herrera: On page 40, line 1, replace figure “19” with figure “23”.

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

Senator Herrera: The title of the bill is amended to read as follows:

AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM TO WIDEN ITS TAX BASE AND ENHANCE ITS ADMINISTRATION, AMENDING FOR THESE PURPOSES SECTIONS 99, 100, 102, 103, 104, 106, 107, 108, AND 110 OF TITLE IV, 112, 115, 117, AND 121 OF TITLE V, AND 236, 237, AND 238 OF TITLE IX, AND REPEALING SECTIONS 113, 114, 116, 118, 119, AND 120 OF TITLE V, ALL OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED AND FOR OTHER PURPOSES.

These are all the amendments, Mr. President.

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

Senator Osmeña: Mr. President.

The President: Senator Osmeña is recognized.

Senator Osmeña: Before I move for a reconsideration of all the Committee amendments that were approved, may I state or note that Committee Report No. 349 does not contain any of the Committee amendments that the distinguished Sponsor just read.

These Committee amendments, Mr. President, have far-reaching effects. They encompass subjects that were never taken up by this Chamber in the debates on this bill. Under our parliamentary practice, the Committee Report reflects the amendments of the Committee so that the Members of this Chamber may be aware of what changes are being proposed by the Committee to the original bill.

Committee Report No. 349 states that the bill before us, which is Senate Bill No. 1630 is a consolidation of the various bills that were considered by the Committee. The Committee Report does not speak of any Committee amendments.

Mr. President, I do not want to lose the opportunity to move for a reconsideration immediately after the subject has been approved by us. But in fairness to all of us, may we request that we suspend consideration of this measure for three hours — it is only five o'clock in the afternoon — and that these amendments be redistributed so that we can at least go over them.

I was totally taken aback when I started hearing all these amendments being introduced. I chose not to disrupt the distinguished Sponsor. I can see that I can support some of these amendments. But I think, to begin with, it is a question of proper parliamentary procedure. Committee amendments are supposed to be included in the Committee Report but they were not included. On the other hand, we are supposed to know what this is all about and not be surprised by the Committee amendments that were never even taken up on the Floor.

SUSPENSION OF THE SESSION

Senator Romulo: May I ask for a one-minute suspension of the session, Mr. President?

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

It was 5:13 p.m.

RESUMPTION OF THE SESSION

At 5:14 p.m., the session was resumed.

The President: The session is resumed.

Senator Romulo: Mr. President, there are actually no Committee amendments. The Gentleman from Cebu is correct. These are individual amendments. So, since there were no Committee amendments, we went to the individual amendments. In fact, as the distinguished Chairman of the Committee on Ways and Means stated, he mentioned even the names of the Senators who have proposed these amendments.

Senator Herrera: Let me just confirm what the Majority Leader stated. That is correct, Mr. President, because this is a substitute bill. These amendments must be treated as individual amendments.

Senator Osmeña: Nevertheless, Mr. President, may I request — and I think it is a very reasonable request — given the far-reaching import of these amendments, that we be provided a written copy of these amendments. Give us time to study them. There are even amendments that do not belong in the VAT Bill because these are amendments on franchise taxes. Aside from that, there are amendments that have been introduced which are totally alien to us and have never been discussed on the Floor.

Again, Mr. President, I do not want to lose the opportunity because under the *Robert's Rules of Order*, a motion for reconsideration must be presented immediately after the action. If we allow something else to take place after these amendments have been approved, there might be a question as to the propriety of a motion for reconsideration. So I reserve the right to move for a reconsideration of any and all of the amendments.

But before we can do that, Mr. President, I think we should be given a copy of these written amendments and the opportunity to study them.

Senator Herrera: I think that is a very reasonable request, Mr. President. We are sorry for our failure to provide in advance a copy of the proposed amendments.

SUSPENSION OF THE SESSION

Senator Romulo: May we ask for a one-minute suspension of the session, Mr. President.

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

It was 5:16 p.m.

RESUMPTION OF THE SESSION

At 5:49 p.m., the session was resumed.

The President: The session is resumed.

Senator Osmeña: Mr. President.

The President: Senator Osmeña is recognized.

Senator Osmeña: Having studied the proposed amendments, although I have reservations on many of them, I have a very serious problem of principle, Mr. President, on the second paragraph of Section 20 which reads: "PROVIDED, THAT THE SERVICES PERFORMED AS ACTORS AND ACTRESS-ES..." et cetera, are not going to be subject to VAT. My proposal is to delete this paragraph.

It is ironic that the Chairman of the *Ad Hoc* Committee on Drugs should now be allowing more money to be in the hands of the biggest sector of society that consumes drugs.

Senator Herrera: Mr. President, as I have indicated during the period of interpellation and even during the period of amendments this morning, I would have liked to include all goods and services under VAT. But somehow, among us here, we have actors and they are appealing for exemption.

So, what transpired during this morning's session was that, there was sort of a compromise that they will not be exempted; they will still be covered by VAT but there is a deferment for three years, Mr. President.

I would like to assure my "Ninong" Senator from Cebu that we are taking a serious look into this matter, Mr. President.

Senator Osmeña: Mr. President, I have not said a word here on the VAT on real estate and rental of property. My family estimates that the cost of this bill collectively would be almost P20 million because this is 10 percent of gross.

I have not protested one word because I think it is about time we all paid taxes, especially those of us who go out and are met by people who ask for more water, because they do not even have basic potable water, schools, health centers, roads, and electricity. That is what I face, Mr. President, every weekend.

That is why, when representation is made to me by the real estate industry that I oppose this VAT because it will cost them taxes, when my family called me up three times this afternoon, I said no.

But, Mr. President, in fairness, I think we should all share the tax burden, and I do not see why there should be a privileged class who cannot be taxed in this Chamber.

That is why, I am moving for the deletion of this paragraph.

SUSPENSION OF THE SESSION

Senator Herrera: Mr. President, may we have a one-minute suspension of the session?

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

It was 5:53 p.m.

RESUMPTION OF THE SESSION

At 5:54 p.m., the session was resumed.

The President: The session is resumed.

Senator Osmeña: Mr. President, so as not to delay or even imperil our work here tonight, it has been agreed that we pursue this matter in the Bicameral Conference Committee, hoping that Mr. Recto will not be in the House panel.

Senator Herrera: I would like to thank my Ninong, Mr. President, for his understanding.

The President: Is there any other individual amendment?

Senator Herrera: Senator Maceda, Mr. President.

The President: Senator Maceda is recognized.

Senator Maceda: Mr. President, may I ask for a reconsideration of the amendment to Section 117 on page 4.

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

Senator Maceda: The amendment, Mr. President, is not to touch the present system of taxing the domestic telephone system or domestic telephone calls, I am afraid that the telephone companies will just use this as an excuse to increase telephone rates at a time when the people are already complaining about high electricity rates and there is a proposal to increase the water rates by the MWSS; and at a time when there are proposals to increase gasoline rates by the three oil companies.

I think we better leave the present telephone taxation as is.

The amendment, therefore, is for the Sponsor to withdraw the amendment bracketing the words "TELEPHONE AND/OR".

Senator Herrera: Mr. President, I would like to give way to Senator Osmena.

The President: Senator Osmeña.

Senator Osmeña: Mr. President, there is an accompanying amendment to that because telephone is included in another section.

So, if that is the intention of the Gentleman, there has to be another amendment, Mr. President.

Senator Maceda: Well, subject to that agreement. The idea is to leave the system of taxing the telephone service as is.

Senator Herrera: Mr. President, while we will accept the amendments, I would just like to put into the *Record* that, under the present system, overseas calls are already covered by 10 percent under the franchise tax. In the case of the telephone based on statistics, there are only 1 million telephone owners, and that would mean one for every six Filipinos own a telephone. We are referring actually to people who are from the higher bracket, Mr. President.

Anyway, I am accepting the amendments to the amendments, Mr. President.

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

Senator Osmeña: In that case, Mr. President, amendment No. 10 which reads: "DEALERS IN SECURITIES LENDING INVESTORS, OPERATORS OF TAXICABS, UTILITY CARS FOR RENT OR HIRE, TOURIST BUSES/TRUCKS, OCEAN", et cetera. And then there is the word "CARGOES" and after "CARGOES" on page 2 the word "TELEPHONE SERVICES" has to be deleted?

Senator Herrera: Yes. That is correct, Mr. President.

So, there will be a corresponding amendment to the provision on page 6, line 14.

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

Senator Osmena: Mr. President, on the same Section 117, just for purposes of clarity, in the third grouping on "OTHER

FRANCHISES," insert the words "AIRLINES AND ON OTHER FRANCHISES".

So, there is no mistaking, Mr. President, because I understand that, to this day, Philippine Airlines is only paying a 2 percent franchise tax. I am not sure whether they have checked it. I asked that it be checked. But just in case that that is correct, Mr. President, there is no harm in saying, "AIRLINES AND ON OTHER FRANCHISES FIVE PERCENT".

Senator Herrera: We are in effect amending the provision on Section 17 because we merely copied the provision of Section 17 and then bracketed the word "telephone." The provision on letter (C), "and other franchises," is the present provision now of the law.

Senator Osmeña: So, that will be the effect, Mr. President?

Senator Herrera: Yes, Mr. President.

Senator Osmeña: Does the Committee accept that?

Senator Herrera: Yes, Mr. President.

Senator Osmeña: The Committee is accepting the amendment, Mr. President.

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

Senator Osmeña: Thank you, Mr. President.

Senator Webb: Mr. President.

The President: Senator Webb is recognized.

Senator Webb: May I add a paragraph on Section 20, Mr. President, if the Honorable Sponsor will agree.

Senator Herrera: Excuse me, Mr. President.

Since on page 39, line 20, where we are amending Section 18 because of the word "telephone" which we would like to transfer under VAT, in that case all that we have to do is to withdraw the amendments for the entire Section 18.

The President: Can the Gentleman repeat that, please?

Senator Herrera: We are withdrawing our amendments on page 39, line 20, which is Section 18. We would like to withdraw the entire amendments, Mr. President.

In effect, Mr. President, what is amended here is only the words "telephone and/or". Now, since "telephone" is deleted and not to be covered under VAT, then we now delete the entire section.

Senator Osmeña: Mr. President, I just would like to ask the Chairman a question.

What would be the effect of that (b) on a franchise wherein the franchise tax is spelled out to be only 2 percent, notwithstanding the approval of EO No. 72 which increased the franchise tax to 5 percent as shown here in Section 18?

Are we, in effect, saying that the franchisee, which is Philippine Airlines, will continue to enjoy 2 percent?

Senator Herrera: I think the Philippine Airlines will still be taxed at 5 percent.

SUSPENSION OF THE SESSION

Senator Osmeña: May I ask for a one-minute suspension.

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

It was 6:02 p.m.

RESUMPTION OF THE SESSION

At 6:05 p.m., the session was resumed.

The President: The session is resumed. We will have to put to a vote the withdrawal of the amendment.

Senator Herrera: Mr. President, on page 39, line 20, the entire provision of Section 18 is withdrawn, considering that we have approved the amendment to the amendment made by Senator Maceda by not including telephone services under the VAT.

The President: So, the amendment originally approved on page 39 before line 20 is withdrawn?

Senator Herrera: Yes. Completely withdrawn, Mr. President.

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

Senator Webb: Mr. President.

The President: Senator Webb is recognized.

Senator Webb: Mr. President, I am not clear about this. Does Section 20 still exist?

The President: Yes.

Senator Webb: May I add a paragraph or so in Section 20 right after the word "hereof." If I am looking at the suggested amendments, it is on page 5, right after the word "hereof." If accepted, the following paragraph could be included:

"PROVIDED, FURTHER, THAT ONLY SERVICES PERFORMED BY PROFESSIONAL ATHLETES AS MEMBERS OF NATIONAL TEAMS REPRESENTING THE PHILIPPINES IN INTERNATIONAL SPORTS COMPETITION, AS CERTIFIED BY THE PHILIPPINE SPORTS COMMISSION FOR A PERIOD OF ONE (1) YEAR COVERING THE TRAINING AND ACTUAL PARTICIPATION, SHALL BE EXEMPTED THEREAFTER."

May I explain the reason why I am injecting this particular proposal, Mr. President.

It seems that we are having a hard time in trying to attract professional athletes to play for the national team. I guess this will be a feature wherein they will think twice and, maybe, hopefully, play for the national team.

Senator Herrera: But they are only deferred, Mr. President. There is already a deferment for three years.

Senator Webb: Yes, I know, Mr. President. But what I am saying is, even after the so-called "deferment," if it comes back, the only way for the athletes to get exempted is on that particular situation. Not right now. I am not talking of right now. I am talking after the deferment, Mr. President.

Senator Herrera: Would the distinguished Gentleman be agreeable if we will just include that under the powers of the President? I think the distinguished Gentleman is referring to these professional athletes who will be playing for the national team.

Senator Webb: Why do we need a presidential action when we can do it right now, Mr. President? I do not see any reason why we should wait. But I am in agreement. The important thing is to inject this on the record no matter who calls the shot; whether it be included in the law now or later on by a presidential or executive order.

Senator Herrera: Under the first paragraph, "the President of the Philippines, upon the recommendation of the Secretary of Finance, may defer the coverage of the VAT." Maybe this can be covered under this paragraph.

Senator Osmeña: Mr. President.

The President: Senator Osmena is recognized, with the permission of the two Gentlemen on the Floor.

Senator Osmena: Mr. President, I am in agreement with the general principles that Senator Webb is trying to achieve. But may I be favored with a restatement of the amendment because I heard the word "only." I just would like to have the language again, Mr. President.

Senator Webb: May I repeat, Mr. President.

After the word "hereof", insert the following: "*PROVIDED, FURTHER, THAT ONLY SERVICES PERFORMED BY PROFESSIONAL ATHLETES AS MEMBERS OF NATIONAL TEAMS REPRESENTING THE PHILIPPINES IN INTERNATIONAL SPORT COMPETITIONS AS CERTIFIED BY THE PHILIPPINE SPORTS COMMISSION FOR A PERIOD OF ONE YEAR COVERING THE TRAINING AND ACTUAL PARTICIPATION PERIOD SHALL BE EXEMPTED THEREAFTER.*"

Senator Osmeña: So, in effect, Mr. President, in the case of athletes, notwithstanding the fact that they are included in the second paragraph which puts them together with performing arts people, only their services during the year when they are members of a national team are covered. When they are not members of a national team, they are not covered by the second paragraph.

Senator Webb: That is right, Mr. President.

Senator Osmeña: I support that amendment, Mr. President. I have no problem.

Senator Webb: Thank you, Mr. President. Can I just ask one question to the Sponsor because I want some clarity here. May I know from Senator Herrera how much is the bracketing now for professional athletes, those that will be exempted?

Senator Herrera: We are providing here a range from P350,000 to 600,000. What we will do, Mr. President, is to discuss this matter with the Secretary of Finance, that the threshold will be about P500,000.

Senator Webb: Mr. President, just for the information of the Gentleman, the distinguished Sponsor. I just got in touch with somebody from the PBA Office. There are 96 professional athletes right now. Out of the 96, 20 players are earning over P150,000; 20 players are earning below P50,000; in between, the 76, are earning between 50,000 and 150,000. This is just for the information of the Gentleman. So when the time comes that we put that particular bracket, we might just come up with a bracketing that will not even affect any player for that matter. If we put it too low, then it will not affect any player because the lowest that an athlete gets right now is P30,000, P40,000, P50,000. That is the lowest.

Senator Herrera: The threshold will not only apply to the players, but this will include all professionals and to those persons who are engaged in selling and barter of goods. So the threshold will not only be applied to the athletes, Mr. President.

Senator Webb: In short, all professional athletes, whether they be horse jockeys or tennis players.

Senator Herrera: Including lawyers, Mr. President; actors are covered by this.

Senator Webb: Thank you, Mr. President. Last amendment is on page 39, after line 19, I would like to insert a new section. Again please take note that I just want some clarity here. Because if this is already inserted, then just tell me after I have mentioned my amendment.

Senator Herrera: On what page, Mr. President?

Senator Webb: On page 39, after line 19, insert a new section — this could probably be the next section after the last section of page 39, after line 19.

"DEFERMENT OF VAT ON CERTAIN GOODS AND SERVICES. — THE IMPLEMENTATION AND COLLECTION OF THE VAT ON THE SALE, EXCHANGE OF SERVICES OF OWNERS, LESSORS, OR DISTRIBUTORS OF CINEMATOGRAPHIC FILMS, TAPES AND DISCS, AND ON SIMILAR SERVICES MENTIONED IN SEC. 102 HEREOF, SHALL BE DEFERRED FOR A PERIOD OF THREE YEARS."

SUSPENSION OF THE SESSION

Senator Herrera: May I request for a one-minute suspension of the session.

The President: The session is suspended for one minute,

if there is no objection. [*There was none.*]

It was 6:14 p.m.

RESUMPTION OF THE SESSION

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

The President: The session is resumed.

Senator Webb: Mr. President, after consultation with the Sponsor, he has enlightened me about the manner and the matter involved. So, I withdraw my proposed amendment, Mr. President.

The President: The amendment is withdrawn.

HERRERA AMENDMENT

Senator Herrera: Mr. President, just one more amendment.

Since we have withdrawn Section 18, then, accordingly, we have to renumber "SEC. 19" and "SEC. 20" as "SEC. 18" and "SEC. 19", respectively.

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

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a one-minute suspension of the session.

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

It was 6:15 p.m.

RESUMPTION OF THE SESSION

At 6:18 p.m., the session was resumed.

The President: The session is resumed.

Senator Tañada: Mr. President.

The President: Senator Tañada is recognized.

TAÑADA AMENDMENT

Senator Tañada: Mr. President, on page 17, line 9, after

the comma (,) appearing after the word "fish", insert the word "PRAWN," and so it will read "fish, PRAWN, LIVESTOCK".

The President: What is the pleasure of the Sponsor?

Senator Herrera: It is accepted, Mr. President.

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

Senator Biazon: Mr. President.

The President: Senator Biazon is recognized.

Senator Biazon: Thank you, Mr. President.

I propose some amendments on line 10, page 21.

The President: Page 21, line 10.

BIAZON AMENDMENTS

Senator Biazon: Yes, Mr. President. Insert between the words "FOR" and "SOCIALIZED" "LOW-COST AND". So that that line will read, "*FOR LOW-COST AND SOCIALIZED*". And further add "SOCIALIZED HOUSING AS DEFINED BY REPUBLIC ACT NO. 7279, OTHERWISE KNOWN AS THE URBAN DEVELOPMENT AND HOUSING ACT OF 1992 AND OTHER RELATED LAWS."

The President: What is the pleasure of the Sponsor?

Senator Herrera: It is accepted, Mr. President.

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

The Majority Leader:

Senator Romulo: Mr. President, there is still one Senator who would like to propose amendments.

I ask that Senator Shahani be recognized.

The President: The Senate President Pro Tempore, Senator Shahani, is recognized.

SHAHANI AMENDMENTS

Senator Shahani: Mr. President, on page 4, line 20, I propose that the words "FOREIGN PERSONS" be replaced with the word "ALIENS". This is consistent with the generic

terminology used in the existing law, the National Internal Revenue Code, to denote nonresident foreigners in the Philippines. If this is acceptable, Mr. President, this should become an omnibus amendment.

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

Senator Shahani: Mr. President, on page 21, line 10, after the capitalized word "HOUSING", add the capitalized phrase: "AND THE FAMILY HOME DULY CONSTITUTED UNDER ARTICLE 157 OF THE FAMILY CODE, AS AMENDED."

Mr. President, we will recall that in the Family Code, homes costing below P300,000 in urban areas and homes costing below P200,000 in the rural areas are given certain privileges such as the right not to be foreclosed, et cetera. If this is also included under the VAT, I think this would encourage our lower middle-class people to own their own homes.

The President: So, the amendment calls for the exemption of the sale of family homes whose value does not exceed P175,000.

Is that the amendment?

Senator Shahani: Yes, this will be under the exemptions, Mr. President.

SUSPENSION OF THE SESSION

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

It was 6:24 p.m.

RESUMPTION OF THE SESSION

At 6:25 p.m., the session was resumed.

The President: The session is resumed.

Senator Shahani: Mr. President.

The President: Senator Shahani is recognized.

Senator Shahani: After clarification with the Chairman, I withdraw the amendment.

Mr. President, on page 39, Section 17, lines 20 to 23, insert the phrase "FOR THE EFFECTIVE IMPLEMENTATION OF

THIS ACT" before the phrase "the Secretary of Finance" and delete the phrase "for the effective implementation of this Act."

This is just a simple editorial amendment, but I think it is still important. In lieu thereof, insert the phrase "WITHIN NINETY (90) DAYS FROM THE APPROVAL OF THIS ACT."

So that the operative phrase reads: "FOR THE EFFECTIVE IMPLEMENTATION OF THIS ACT, the Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations WITHIN NINETY (90) DAYS FROM THE APPROVAL OF THIS ACT."

I think this will give that sense of urgency which, I believe, we are concerned about in this Chamber.

SUSPENSION OF THE SESSION

Senator Herrera: Mr. President, may I ask for a one-minute suspension of the session.

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

RESUMPTION OF THE SESSION

At 6:27 p.m. the session was resumed.

The President: The session is resumed.

What is the pleasure of the Chairman?

Senator Herrera: After consultation with the proponent of the amendment, Mr. President, we agreed that the 90 days be reduced to 60 days.

The President: Is it accepted?

Senator Herrera: It is accepted, provided that it is reduced to 60 days.

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

Senator Shahani: That is all, Mr. President.

The President: Thank you.

Senator Herrera: Mr. President, since we are now on page 39, I would like to propose the deletion of the figure "118" since

we have retained the franchise tax on telephone.

The President: So the first amendment, including Section 118 in Section 16, is being withdrawn?

Senator Herrera: Yes, Mr. President. Also, on the title of the bill, delete the figure "118".

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

Senator Herrera: Thank you, Mr. President.

Senator Maceda: Mr. President.

The President: Senator Maceda is recognized.

Senator Maceda: I have two amendments to present, Mr. President.

On page 7, line 6 of the substitute bill under "SPECIALTY FEEDS," as the "SPECIALTY" indicates, I do not think the intention is to tax, for example, ordinary grass. I would like to insert before the word "FEEDS" the word "NONAGRICULTURAL" because the general rule is, we are not supposed to tax with VAT the agricultural products.

Senator Herrera: It is accepted, Mr. President.

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

Senator Maceda: On page 15, lines 1 and 2, is it my understanding that this specification, in effect, zero rates the sale of gold to the BSP?

Senator Herrera: Yes, Mr. President.

Senator Maceda: Mr. President, to begin with, we are already going to give tax relief to the gold industry. Secondly, it is of record that the Central Bank never really sells its gold for export. Therefore, this should not be within the purview of the export.

I move to delete lines 1 and 2.

Senator Herrera: Mr. President, Senator Osmena has a comment on that.

Senator Osmeña: Mr. President.

The President: Senator Osmeña is recognized.

Senator Osmeña: Mr. President, last year, when we went to Davao to investigate the problem with the gold panning industry in Davao del Norte, we found out that the gold panners were selling their production through Borneo to Singapore precisely because they were saying that if they sold it to the Central Bank, they would be subjected to all sorts of taxes.

I am just here as *amicus curiae* for the information of the Chamber that, perhaps, if we delete this, we would be encouraging again the smuggling of the production of Davao del Norte to Singapore.

Senator Maceda: As the Gentleman admitted, Mr. President, right now, sales to the Central Bank are not being taxed. The purview of my amendment is to tax it. Meaning to say, that is not the reason why they are smuggling out. There are several reasons.

The main reason is that the big buyers there — there are about four or five and the Gentleman knows them — are cornering the purchases from the very beginning. Just like the palay trade, they advance payments to the miners up in the mountains even before the production.

So the ones who are really selling to the Central Bank are the regular producers and not the gold panners.

Senator Osmeña: Mr. President, that is a matter that is covered by a Committee Report of the Committee on Natural Resources. I am not very conversant at the moment from the top of my head with all the details of that Report. But, again, in this case, if we are going to impose a tax, then we will, in effect, be creating an incentive. But I have no strong feelings one way or the other.

Senator Herrera: My only concern here is if they are allowed to export gold. Because if they are not allowed to export gold and only the Central Bank can, then it would be unfair that they will be covered under VAT.

But if they are now allowed to export gold and therefore can take advantage of the zero rate, I think the Gentleman's proposal to include them now under VAT, the sale to Central Bank would only be reasonable.

Senator Maceda: The Central Bank should get out of the business of dealing in gold, Mr. President.

Senator Herrera: I accept the proposal, Mr. President.

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

Senator Maceda: Thank you, Mr. President.

SUSPENSION OF THE SESSION

Senator Romulo: I ask for a one-minute suspension of the session, Mr. President.

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

It was 6:33 p.m.

RESUMPTION OF THE SESSION

At 6:36 p.m., the session was resumed.

The President: The session is resumed.

Senator Tolentino: Mr. President.

The President: Senator Tolentino is recognized.

Senator Tolentino: I would like to propose certain amendments. But before doing so, may I be permitted to ask some clarificatory questions to the distinguished Sponsor?

Senator Herrera: Willingly, Mr. President.

Senator Tolentino: With respect to the sale of real property, does this VAT supersede the capital gains tax now being collected from the sale of real property?

Senator Herrera: Mr. President, those who are engaged in the buy and sell of real property or developers are not covered by capital gains tax.

Senator Tolentino: And so this will apply to them without the capital gains tax from which, at present, they are not required to pay?

Senator Herrera: The Gentleman is correct there, Mr. President. They are not covered by the capital gains tax.

Senator Tolentino: Those who are not engaged in the business of buying and selling, for instance, in many cases, of condominiums having been constructed and the units are being sold, are the sale of these units subject to the capital gains tax or the VAT?

Senator Herrera: If one is the owner of the condominium and that is not his primary business, he is covered by the capital gains tax.

Senator Tolentino: Not by this one?

Senator Herrera: Not by this one.

Senator Tolentino: Yes. We see many cases now of people constructing these condominiums. They are actually the owners of the lot and they spend for the construction. It is not a buy-and-sell, but their first transaction is to sell the units.

Senator Herrera: Is the Gentleman referring to one who is, say, the owner of the condominium and he wants to sell that?

Senator Tolentino: He owns the lot.

Senator Herrera: He is not covered by VAT, but he is covered by the capital gains tax.

Senator Tolentino: I see.

Senator Herrera: But if his business is in the construction and is collecting rental of condominiums, he is covered by the VAT.

Senator Tolentino: But not by the capital gains tax.

Senator Herrera: That is my understanding, Mr. President.

Senator Osmeña: Mr. President.

The President: With the permission of the two Gentlemen, Senator Osmeña is recognized.

Senator Osmeña: I would like to clarify, Mr. President, with the permission of Senator Tolentino and Senator Herrera.

If one is a developer, he builds a building and then, as a result of the activity of building that building, he creates condominium units which are actually airspaced and suitable for habitation, and he sells these units to people, that is subject to VAT. Is that not correct?

Senator Herrera: Yes, that is subject to VAT. The Gentleman is correct.

Senator Osmeña: And then in addition to VAT, his project, if he gains — as he will gain most likely — is also subject to capital gains tax.

SUSPENSION OF THE SESSION

Senator Herrera: May we have a one-minute suspension

of the session, Mr. President?

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

It was 6:40 p.m.

RESUMPTION OF THE SESSION

At 6:44 p.m., the session was resumed.

The President: The session is resumed.

Senator Osmeña: Mr. President.

The President: Senator Osmeña is recognized.

Senator Osmeña: With the indulgence of the Gentlemen on the Floor, I would just want the record to show what we were discussing during the break.

If a person who owns a vacant piece of land builds on that land an *acesoria* or a condominium or town houses, using the example of Senator Tolentino, and in the process creates ten living liveable units and sells these to the different parties, would that transaction be subject to VAT?

Senator Herrera: It is subject to VAT, Mr. President.

Senator Osmeña: Would it be subject to capital gains tax?

Senator Herrera: It is not subject to capital gains tax. Senator Osmeña. In the first example, he is the owner of the land. In the second example, he contracts with the owner of the land and builds these units, and then sells them in partnership with the owner of the land. Is that subject to VAT?

Senator Herrera: That is subject to VAT because that is in line with his business.

Senator Osmeña: But this is one incident only, and not a repetition of incidents. In other words, he is not a developer in its accepted concept.

Senator Herrera: The criterion here is that, if this is part of his business operations, this should be covered by VAT. If I have a house which I would like to sell because I want to build another house, I am not covered by VAT since that is not my business. I will be covered by capital gains tax.

Senator Osmeña: In effect, a developer whose business is

to sell either livable units or vacant lots is only covered by VAT and not by capital gains tax.

Senator Herrera: Yes, Mr. President. He has to pay income tax and, at the same time, pay a business tax which is now VAT. In the case of a person who owns a property, a land, and would like to sell that land probably because he would like to build a house, that is covered by capital gains tax and not by VAT.

Senator Osmeña: Thank you, Mr. President.

Senator Tolentino: Mr. President.

The President: Senator Tolentino is recognized.

Senator Tolentino: The distinction is now clear. But in those cases where a person builds several townhouses on his lot and sells the townhouses, that is covered by VAT and not by capital gains tax. Will these transactions be covered by income tax?

Senator Herrera: As a businessman, he has to pay his income tax and the business tax which is now the VAT.

Senator Tolentino: He pays the VAT, and at the end of the year, he pays his income tax. Is the VAT deductible from his income tax?

Senator Herrera: The income tax is based on his net earnings.

Senator Tolentino: I mean, will the 10 percent that the businessman paid as VAT be deductible from his income tax?

Senator Herrera: It is not deductible, Mr. President.

Senator Tolentino: Actually, that is really a tax in addition to the income tax.

Senator Herrera: Yes, Mr. President.

Senator Tolentino: Because he does not deduct a payment made in the course of his business.

Senator Herrera: Yes, Mr. President. But in the case of an income tax, it is a tax based on one's income. In the case of VAT, it is based on contribution, and it will be the buyer of the units who will eventually be absorbing the VAT. He passes it on to the buyer.

Senator Tolentino: That is the practice, but as I understand

under this bill, it is the seller who pays the tax.

Like in the case of a person who is engaged in a restaurant business. He is supposed to pay the VAT, but actually he passes it on to the consumers.

Senator Herrera: The concept of VAT is based on consumption. Even in the example of the Gentleman, the end user will be the one who pays for that.

Senator Tolentino: Actually, as we have seen it, this is actually a tax that is really passed on to the end user; therefore, the end user pays. That means the price of the goods being sold is actually increased by the amount of the VAT.

Senator Herrera: Precisely, Mr. President. That is why there is no justification to include that as deduction from the income tax because that will be passed on to the customers.

Senator Tolentino: Mr. President, may I invite the attention of the Sponsor to page 5, and there are other pages with similar matters.

This enumeration on Sale or Exchange of Services on lines 14 to 17, it says: "AND SIMILAR SERVICES REGARDLESS OF WHETHER OR NOT THE PERFORMANCE THEREOF CALLS FOR THE EXERCISE OR USE OF THE PHYSICAL OR MENTAL FACULTIES."

Does the distinguished Sponsor not feel that the use of the word "SIMILAR" here, "SIMILAR SERVICES", actually gives the Bureau of Internal Revenue some kind of legislative power? Because how can we dispute what is a similar service when the BIR says, "This is a similar service."

My point is, should we not be specific? In the following sentence on line 17, it says: "IT SHALL LIKEWISE INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING:" Why do we not just specify what are these services subject to tax and avoid the use of "similar services"? That will give the BIR a lot of leeway and the poor taxpayer usually has no way. It is the BIR that is followed. We pay the tax under protest, if we want to, but we will undergo the process of protesting the tax and trying to recover the tax.

I think in penal law, as in taxation law, we have to be very specific as to what is being taxed or what is being punished. And saying "similar" is something that is very broad and vague leaving to the BIR the choice of what they will call "similar."

Senator Herrera: Mr. President, this particular provision has been amended. The word "SIMILAR" has been replaced by

the word "OTHER".

Senator Tolentino: It will be the same, "Similar" or "Other". It will have the same implication because that is not specific.

My point is that, we should be specific: in what act, what service, what goods are going to be subject to tax. But when we say "similar" or "other services", that is still vague. We do not know what they are.

Senator Herrera: Yes, Mr. President.

Senator Tolentino: In fact, "other" will be more extensive than "similar."

Senator Herrera: That is why, Mr. President, in the concept of VAT, we are very specific on those that are exempted. So, we specified those that are exempted.

Senator Tolentino: But supposing we have a case not included in the exempted, and not included also in those specified as subject to the tax? So, we have a wide gap there between what is exempted and what is specifically subject to tax. In which case, this kind of business or transaction or service is similar to the others. No way of fighting that.

Senator Herrera: That is why, Mr. President, in the concept of VAT, we have to cover all goods and services except those that are specifically mentioned.

In that case, Mr. President, all services which are not included in the exemptions will have to be covered by VAT, because it is very difficult to anticipate all forms of services.

Senator Tolentino: That is the point, Mr. President. Since the law does not specify, then we have a very wide field in which the BIR can impose or collect taxes, saying that this transaction is similar to what is already in the law. I think that is a very dangerous way of providing in a tax law because the taxpayer will be at the mercy of the BIR under those circumstances.

Senator Herrera: In fact, the intention really, Mr. President, is to cover all services, except those that are specifically identified or mentioned in the law. The idea of a VAT is that, it should be as comprehensive as possible. The exemptions will have to be very limited and they have to be specified.

Senator Tolentino: During floods, Mr. President — this may be a ridiculous example but it will put across my point — there are some boys who used to carry pedestrians from one side of the street to the other and collect money for that. That is

already a business. Is that a taxable business?

Senator Herrera: It is not, Mr. President, in the sense that we have a threshold of P500,000. I am sure that they are not earning P500,000.

Senator Tolentino: Do not be very sure of that. In one day, if a service for crossing the street is P25, by 28 persons only they will already have P500.

It may be an example, but what I am trying to point out is, that when a tax law includes those words "similar" and "other", there is a wide space there, a wide point of discretion where the BIR can impose a tax and this is similar to that service. It is not included in the exempt transactions, in which case, the taxpayer is simply at the mercy of the BIR.

Senator Herrera: Not really, Mr. President. If we look at Section 103 on page 16, we have an enumeration there of what are those that will be exempted because some of them are covered under other laws.

Senator Tolentino: Well, of course, if they are covered by other laws, there will be no question about that. There may be cases which are not covered by any law.

There are several pages here containing those words "and similar". Like on page 7, "or engages in similar transactions."

Senator Herrera: Precisely, Mr. President, because in the succeeding sections, we identified what are those to be exempted.

For instance, services rendered by individuals pursuant to an employer-employee relationship, those are exempted.

Senator Tolentino: Why do we not just simplify this bill and say, "All transactions in any business are covered by VAT except those exempted." It will have the same effect.

Senator Herrera: Precisely, Mr. President. This is really the essence of this bill. That is why I am inviting the attention of the Gentleman to Section 103, where in effect we are saying, "All are covered except those provided under this Section."

Senator Tolentino: Mr. President, I think this bill is too long. Why are we going to bother reading all of these business transactions subject to tax when after all, everything is subject to tax except those in the exemptions? We better just lay down the exemptions.

Senator Herrera: Because we are also trying to rearrange the provision, Mr. President. Medyo magulo because we really

have to reflect matter of technical requirements. We have to reflect existing laws and then provide also what are the amendments. That is why, parang magulo kung titingnan natin. Pero sa oras na maaprubahan ito at maayos na natin in its form at maging batas, it will become simpler than the existing law.

Senator Tolentino: I am afraid, Mr. President, that this inclusion of "similar services", or similar transactions" introduces into the bill not only a very vague provision which gives the BIR powers which are not specified in the bill, but maybe a very rich source of corruption where a BIR can say, "This is similar but if you pay so much, we are not going to charge you the VAT."

I think, Mr. President, this is a very dangerous provision in a tax measure. This is like saying in a penal law that similar acts are also punished after specifying what acts are punishable. This, to me, is a very serious objection.

I know the purpose of the bill is to collect as much tax as is possible, and practically, everything we do now is subject to tax except those that are enumerated as subject to zero tax or exempted.

Mr. President, this is a matter that should be given more serious thought because this may make the taxpayers victims of BIR collectors as either imposing more burdens upon people or as a source of corruption.

This, to my mind, should be very well studied. I hope that this can be given more attention than a passing one because of the scope of the phrase "similar transactions or similar cases, similar services, and so on".

Would the distinguished Sponsor not like to delete those phrases so that there may be no doubt, there may not be a new source of corruption in the BIR?

Senator Herrera: First, let me emphasize, Mr. President, that this is an existing provision of the law that we are reading, second, I am trying to simplify this. As I said, the concept of VAT is really to make it as comprehensive as possible.

This is an existing provision. The "similar services" that we are referring to is an existing provision of the law. We are identifying the specific services that should be exempted. This is an existing provision that we are referring to.

Senator Tolentino: Yes, but we better leave the related provision.

I direct the attention of the Sponsor to a similar provision on

page 7 under "persons liable" This is more to the point that I am trying to raise: "Any person who in the course of trade or business sells, barter, or exchanges goods or properties, renders services, or engages in similar transactions..."

That is very broad and, as I said, a dangerous provision. And if it already exists in the present laws, it should be eliminated because that may be a source of a lot of corruption in the BIR.

Senator Herrera: That is why, Mr. President, as I said, I am inviting the attention of the Gentleman to the other provision where we are identifying the specific transactions which are not covered by the VAT. However, if the Gentleman has a better formulation to amend the existing provision, I would appreciate very much, Mr. President.

Senator Tolentino: The only alternative I can offer is to remove that provision, that phrase.

If the Chair will permit, I will skip first this proposal and we may take it up later. I would just like to make another proposal which, I think, would not be too controversial. That is on page 20, "Leasing of Real Property - Agricultural land AND residential property with a monthly rental of less than TEN THOUSAND PESOS (P10,000)..."

With the inflation now, Mr. President, the rental of P10,000 is not a very high rental. So, perhaps, we should try to cover those premises which are in these plush subdivisions where owners lease their properties and buy several lots, several houses, and then lease them at a very high amount.

I would propose that the "P10,000" be changed to "P30,000".

Senator Herrera: Can we reduce it to "P20,000", Mr. President?

Senator Tolentino: Let us make it "P25,000".

Senator Herrera: It is accepted, Mr. President.

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

Senator Herrera: May I have a proposal to the Gentleman from Manila, Mr. President, as to his concerns about the word "similar"? We can do it during the Bicameral Conference while we are looking for a better formulation in order to amend the existing provision.

Senator Tolentino: But if the House bill contains the same

"similar", we cannot change it anymore. So we better eliminate it.

If a provision is contained in both versions already, I do not believe we can still change it.

SUSPENSION OF THE SESSION

The President: We shall have a one-minute suspension of the session, if there is no objection. [*There was none.*]

It was 7:05 p.m.

RESUMPTION OF THE SESSION

At 7:07 p.m., the session was resumed.

The President: The session is resumed.

Senator Tolentino: Mr. President.

The President: Senator Tolentino is recognized.

Senator Tolentino: Considering the statement of the distinguished Sponsor that we may study the proposal better so that it may be considered in the Conference Committee, since I have called attention to two parts of this bill where the word "SIMILAR" is used, we will skip that on page 5 and on page 7, I propose that on line 15 and 16, we delete the phrase "OR ENGAGES IN SIMILAR TRANSACTIONS". I believe that will pave the way for a consideration also of what is on page 5.

The President: What is the pleasure of the Chairman?

Senator Herrera: Excuse me, Mr. President. The proposal is to delete...

The President: The phrase "OR ENGAGES IN SIMILAR TRANSACTION" appearing on lines 15 and 16 of page 7.

Senator Herrera: I accept, Mr. President.

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

Senator Tolentino: Thank you, Mr. President.

The President: The Majority Leader is recognized.

Senator Romulo: Mr. President, if there are no more

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

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

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a one-minute suspension of the session.

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

It was 7:09 p.m.

RESUMPTION OF THE SESSION

At 7:11 p.m., the session was resumed.

The President: The session is resumed.

APPROVAL OF SENATE BILL NO. 1630 ON SECOND READING

Senator Romulo: Mr. President, I move that we vote on Senate Bill No. 1630, as amended, on Second Reading.

The President: We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill will please say *Aye*. [*Several Senators: Aye.*] As many as are against will please say *Nay*. [*Silence*]

Senator Maceda: Mr. President.

The President: Senator Maceda is recognized.

Senator Maceda: May I register a vote of abstention.

The President: So recorded. Senate Bill No. 1630, as amended, is approved on Second Reading.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, may I ask for a one-minute suspension.

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

It was 7:12 p.m.

RESUMPTION OF THE SESSION

At 7:15 p.m., the session was resumed.

The President: The session is resumed.

Senator Romulo: Mr. President, there is a certification issued by the President of the Philippines on Senate Bill No. 1630. May I ask the Secretary to read the certification before we move for approval of the bill on Third Reading.

The Secretary:

22 March 1994

HON. EDGARDO J. ANGARA
Senate President
Senate of the Philippines
Manila

Dear Senate President Angara:

Pursuant to Section 26(2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of S. No. 1630, entitled

AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM TO WIDEN ITS TAX BASE AND ENHANCE ITS ADMINISTRATION, AMENDING FOR THESE PURPOSES SECTIONS 99, 100, 102, 103, 104, 106, 107, 108, AND 110 OF TITLE IV, AND 112 OF TITLE V, AND 236, 237, AND 238 OF TITLE IX, AND REPEALING SECTIONS 113, 114 AND 116 OF TITLE V, ALL OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES,

to meet the emergency of the growing budget deficit.

This particular bill is one of the alternative sources of revenue jointly identified by the government and representatives of the private sector to replace the oil levy.

(Sgd.) FIDEL V. RAMOS

Senator Maceda: Mr. President.

The President: Senator Maceda is recognized.

Senator Maceda: Mr. President, may I inquire from the

Majority Leader whether the aforesaid emergency of the budget deficit is within the constitutional purview of a certification? Is it that bad? Is this country, under the Ramos Administration which is handling our finances and expenditures, about to collapse?

Senator Romulo: Mr. President, the growing budget deficit is certainly a cause for alarm. This measure and other administrative measures which would narrow that gap is certainly of emergency in nature that should be resorted to as soon as possible.

Senator Maceda: I would like to thank the Gentleman for that explanation.

Mr. President, this being a tax measure and so many complicated provisions have been amended, ordinarily, the better part of prudence should have dictated that we should first have a clean copy. However, I have the assurance of the distinguished Majority Leader—and I would like to put it on the *Record*—that when the clean copy is finally printed and we find that there are errors that are not in the debates and in the amendments that were finally adopted, we reserve the right to ask for a reconsideration of the bill.

Senator Romulo: Mr. President, we will assure our distinguished Colleague and we will see to it that what has been discussed and approved here would be reflected accurately in the final printed copy after the Third Reading.

BILL ON THIRD READING
Senate Bill No. 1630 - VAT Refinements

Senator Romulo: Mr. President, I move that we vote on Third Reading on Senate Bill No. 1630.

The President: Voting on Third Reading on Senate Bill No. 1630 is now in order.

The Secretary will please read the title of the bill only, if there is no objection. [*There was none.*]

The Secretary: Senate Bill No. 1630, entitled,

AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM TO WIDEN ITS TAX BASE AND ENHANCE ITS ADMINISTRATION, AMENDING FOR THESE PURPOSES SECTIONS 99, 100, 102, 103, 104, 106, 107, 108, AND 110 OF TITLE IV, AND 112

OF TITLE V, AND 236, 237, AND 238 OF TITLE IX, AND REPEALING SECTIONS 113, 114 AND 116 OF TITLE V, ALL OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED, AND FOR OTHER PURPOSES

The President: The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 13

Senator Alvarez	Senator Romulo*
Senator Angara	Senator Shahani*
Senator Biazon	Senator Tañada*
Senator Herrera	Senator Tatad*
Senator Osmeña*	Senator Tolentino
Senator Revilla	Senator Webb*
Senator Roco	Senator Maceda*

NO - 0

ABSTENTION - 1

RESULT OF VOTING

The President: With 13 affirmative votes, no negative vote, one abstention, Senate Bill No. 1630 is approved on Third and final Reading.

EXPLANATION OF VOTE OF SENATOR MACEDA

Senator Maceda: Mr. President, once again, we have the Taxman from Asingan riding roughshod over the efforts and the lives of the Filipino people into a depressing sunset.

This measure would not have been necessary had this Administration in the last one year and seven months exercised more fiscal prudence. And instead of concentrating on what appears to be a politically and personally motivated tax battle with one specific taxpayer, had really mandated the Bureau of Internal Revenue and the Bureau of Customs to collect taxes with a little more efficiency and fervent effort, there would have been no necessity for additional new tax measures.

Mr. President, this additional new tax measure, because of oft-repeated fiscal deficit or budget gap, I would say without any hesitation that at least one half, if not two thirds, of that so-called fiscal deficit is due to the continuing corruption in Government which has resulted in any estimate anywhere from P20 billion to

*With explanation of vote.

P100 billion being lost either in the matter of wastage in actual expenditures or in the lack of collection because precisely of corruption having blocked or having eased the collection effort.

Mr. President, we have not seen any major personalities outside of the one that we exposed during President Aquino's time in the BIR and the Bureau of Customs charged for corruption and hummed to pasture as an example. It is now three months to add since papers calling for the separation of the MWSS Administrator has been pending on top of the desk of President Ramos and he has not acted on that clear case of corruption, investigated by his own three-man fact-finding committee and recommended by the Executive Secretary.

Mr. President, until the present Administration conducts a more serious effort in reducing wastage of public funds by really clamping down on corruption, then there will be more and more tax measures that will be sent to us because that appears to be the easy way out instead of having to do it the more sensible and reasonable way, and that is, to really clamp down on the linkages, the excesses, the corruption, and all the inefficiencies that the tax collection agencies, as well as the tax administering department of Government are guilty of.

However, Mr. President, that having been said, I do realize that we are in a leaking boat situation, again, not of our own making but because of that, I could also see the reason we are forced into a "back to the old situation" where we have no choice but to agree to a package of three revenue generation measures. This is the second one to pass, and the third one is being properly studied and prudently considered by the Committee of Senator Lina and Senator Roco.

For these reasons, Mr. President, much as I should vote against this measure, I will therefore simply abstain.

The Secretary: Senator Osmeña.

EXPLANATION OF VOTE OF SENATOR OSMEÑA

Senator Osmeña: Mr. President, it is with great reservation and reluctance that I am voting in favor of this measure.

I realize that we all have to bear the burden of Government, even the unfortunate burden of corruption in the Government. This is an obligation that we should all bear and share. And, I think, more than any tax measure in the past, even all the tax measures that we have heretofore approved, this is one tax measure that almost gets everyone, without exception.

But there seems to be a new elite, a new privileged class, a class of people who do not have to bear this burden. Because in

Section 20 of this bill, we are saying that the services performed as actors and actresses, talents, singers and emcees — I do not know what emcee, maybe, even the emcee in the barangay fiestas — radio and television broadcasters, choreographers — perhaps, even the choreographers of the dancers that go to Japan—musical, radio, movie, television and stage directors are not going to be subjected to VAT.

What reasons mitigate this? I do not know and I cannot accept, Mr. President.

I agree that our athletes in order to enhance the development should or may be considered for preferential treatment in some ways. But, certainly, we should all bear the burden, and the burden should be borne even by actors and actresses, talents, singers and emcees.

That is why I vote *Yes*, with reservations, Mr. President.

EXPLANATION OF VOTE OF SENATOR ROMULO

Senator Romulo: Mr. President, may I just make a reservation to put my remarks on a *Yes* vote into the *Record*.

The President: The reservation is noted.

EXPLANATION OF VOTE OF SENATOR SHAHANI

Senator Shahani: Mr. President, I vote *Yes* to Senate Bill No. 1630, "AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM".

Mr. President, I do so because I believe this is a significant bill for two reasons: First, it is expected to generate significant incremental revenues which will be a big help in closing the fiscal gap; and second, because it is a demonstration of the political independence and political will of this Chamber.

Mr. President, if VAT has been successful in other countries in terms of raising needed funds for government expenditures, I do not see why it should be any different in the Philippines. On the same vein, it is recognized that VAT will have to be properly implemented. And for this reason, we shall be needing reforms and new regulations, even new legislation in terms of tax administration.

I also hope that the Bureau of Internal Revenue will be up to its new tasks in making this restructuring of the value-added tax system a reality in our economic life.

With these comments, Mr. President, I vote *Yes*.

EXPLANATION OF VOTE OF SENATOR TAÑADA

Senator Tañada: I am voting *Yes* with great reluctance and strong reservations, and I will be submitting a written explanation of my vote.

EXPLANATION OF VOTE OF SENATOR TATAD

Senator Tatad: Mr. President, may I briefly explain my vote.

It is with a heavy heart that I vote *Yes* on this measure. And this is not made lighter by the fact that in just a couple of days, President Ramos will again be leaving for Vietnam on what is to be his tenth foreign visit since he became President of the Philippines. Of course, it is some consolation that the entourage seems to have grown smaller and we will be ably represented by a very distinguished Colleague for whom we hold a very high respect during this Vietnamese visit.

There are reasons why we have many countrymen who are offended every time the word "tax" is mentioned. And we hear this quite often said that for so long as corruption exists in Government and corruption exists at a level that seems not to abate, there is no reason to pay taxes.

I believe, Mr. President, we have to make a distinction. We need a government that is honest and not corrupt. But we need citizens who are mindful of their duties to the society and the State, and this is best expressed by paying our taxes. There is, after all, no such thing as a free lunch. Even the middling entertainment that we describe as Government has to be paid for.

And so, while we exert every possible effort to improve the quality of government, we must insist on disciplining ourselves so that at the end of the day, we produce a citizenry that is fully alive to its duties to the State. And as I said, this is best expressed by paying taxes.

Of course, we should exert every effort to make sure that taxes are not regressive; that they do not touch those who are without purchasing power too much, but that taxes should touch those who are privileged, who enjoy such status in life that they can compare with the most privileged in the most privileged countries. I think this is something that we should not quarrel about.

So, in the hope that the VAT system will provide a strong enough tax base for the economy, I reluctantly and painfully say *Yes* to this measure.

EXPLANATION OF VOTE OF SENATOR WEBB

Senator Webb: Let me start by thanking Senator Herrera

for accepting some of my amendments. The Sponsor has accepted most of my amendments and for that, I thank the Gentleman.

Let me explain particularly the amendments that I have made, especially as far as the athletes are concerned.

The athletes cannot be compared with other professionals. For instance, they cannot be compared to actors and actresses; they cannot be compared to lawyers or doctors for that matter. The life span that they have, playing as professionals, whether for a specific club or the national team, limits their talents to certain number of years. As I mentioned this morning, most of the so-called professional athletes, in basketball for instance, would come in at a very early age of 23. But again, retirement is imminent at the age of middle 30s or early 40s, which is seldom seen nowadays.

Athletes, particularly professionals, are lured while on their high school or college days that sometimes, they could not even finish college anymore because of the attraction that the professionals, the PBA, for instance, offers and gives to them. Notice, Mr. President, that they have to choose at times whether to continue playing, working or studying. That is why most athletes do not get their college degrees.

As we have deferred, so to speak, the VAT on professional athletes, in particular, we are not only talking of basketball players, but we are talking of other professionals, even tennis players and boxers who do not really earn that much. These athletes do not go on a day-to-day, or week-to-week or month-to-month salary basis, but they have a particular contract to deal with.

It is in this context — the contract factor — that most athletes are conditioned that they are in a dwindling stage. Na pag dumating na iyong expiration date ay hindi sila nakasisiguro kung ang kanilang mga kontrata ay ire-renew pa o hindi na. Kaya ang pangamba nilang ito ay iang malaking bagay sapagkat sila ay may mga pamilya.

About three weeks ago, we formed the Professional Players Union particularly on the basketball players. I noticed that most of those who attended, those players who have gone through their playing years are jobless because what they did was only to put their minds and souls to playing, so much so that they placed all of their investments in playing.

Mr. President, I would like to thank again the Honorable Sponsor. Hopefully, after this deferment passes, the other amendments that I have placed will be implemented, particularly the exemption for those who play for the national team.

I had a hard time, even when I was in the House of Representatives, trying to entice our professionals to play in our national team because they were bound by a contract that provided they had to play only for their respective clubs.

But once this exemption is implemented, I think this will encourage and tell them, that "Indeed, our Government knows how to pay and repay them for the services that they are going to give to our country."

Maraming salamat po, Ginoong Pangulo.

CONFERENCE COMMITTEE ON SENATE BILL
NO. 1630/SENATE BILL No. 11197
(VAT Refinements)

Senator Romulo: Mr. President, to constitute the Senate panel in the Bicameral Conference Committee, I move that the following be made Members of said panel: Senators Herrera, Shahani, Romulo, Osmeña, Maceda, Ople, Tatad, Biazon and Tanada.

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

BILL ON THIRD READING
House Bill No. 10693 - Tax Relief on the Mining Industry

Senator Romulo: Mr. President, I move that we vote on Third Reading on House Bill No. 10693. Printed copies of the bill were distributed to the Members of the Senate last March 21, 1994.

The President: Voting on Third Reading on Senate Bill No. 10693 is now in order.

The Secretary will please read only the title of the bill, if there is no objection. [*There was none.*]

The Secretary: House Bill No. 10693, entitled,

AN ACT REDUCING THE EXCISE TAX RATES
ON METALLIC AND NON-METALLIC
MINERALS AND QUARRY RESOURCES,
AMENDING FOR THE PURPOSE SECTION
151 (a) OF THE NATIONAL INTERNAL
REVENUE CODE, AS AMENDED.

The President: The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 14

Senator Alvarez	Senator Roco
Senator Angara	Senator Romulo
Senator Biazon	Senator Shahani
Senator Herrera	Senator Tañada
Senator Maceda	Senator Tatad*
Senator Osmeña*	Senator Tolentino
Senator Revilla	Senator Webb

NO - 0

ABSTENTION - 0

RESULT OF VOTING

The President: With 14 affirmative votes, no negative vote and no abstention, House Bill No. 10693 is approved on Third Reading.

EXPLANATION OF VOTE OF SENATOR OSMEÑA

Senator Osmeña: Mr. President, may I explain my vote. I vote with a resounding affirmative vote.

Two Fridays ago, Senators Herrera, Macapagal, Biazon, and myself went to Toledo City to hold a public hearing of the Committee on Economic Affairs on a bill which would create a free trade and export zone in that depressed city. This proposal is desperately needed to address the problem resulting from the decline of the mining operations of Atlas Consolidated Mining Company.

At its height, Atlas employed 15,000 people; today, less than a thousand. There are thousands of jobless, and to make matters worse, there are thousands of young people who had to stop their schooling because their parents have lost their jobs. This is the reason why I am voting for this bill because this bill injects a ray of hope into the operations of Atlas Consolidated Mining and Development Company. It provides a ray of hope for 15,000 people who are there waiting for a fresh turn of events.

In its heyday, Atlas paid millions of pesos in taxes. It earned for us millions of dollars in foreign exchange. What we are doing is simply paying back to Atlas and the people who worked in Atlas what they have already paid many times more to the Government of this country.

That is why I reiterate, I vote for a measure that will bring

*With explanation of vote

(Sgd.) ALBERTO G. ROMULO

(Sgd.) BLAS F. OPLE

(Sgd.) VICENTE C. SOTTO III

CONFERENCE COMMITTEE REPORT ON
SENATE BILL NO. 1630/HOUSE BILL NO. 11197
(VAT Refinements)

Senator Romulo: Mr. President, we also have the Conference Committee Report filed with the Office of the Secretary of the Senate on the disagreeing provisions of House Bill No. 11197 and Senate Bill No. 1630, on the restructuring of the Value Added Tax System. Both the Senate and the House panels have affixed their signatures on this Conference Committee Report.

To render the report to this Body, I ask that the distinguished Chairman of the Committee on Ways and Means, Senator Ernesto Herrera, be recognized.

The President: Senator Herrera is recognized.

Senator Herrera: Thank you, Mr. President. As the Chairman of the Senate panel, Mr. President, I am glad to submit the Conference Committee Report on the disagreeing provisions of House Bill No. 11197, entitled

AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM TO WIDEN ITS TAX BASE AND ENHANCE ITS ADMINISTRATION, AMENDING FOR THESE PURPOSES SECTIONS 99, 100, 102, 103, 104, 105, 106, 107, 108, AND 110 OF TITLE IV, 112, 115 AND 116 OF TITLE V, AND 236, 237, AND 238 OF TITLE IX, AND REPEALING SECTIONS 113 AND 114 OF TITLE V, ALL OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED,

and Senate Bill No. 1630 on the same subject, Mr. President.

The Conference Committee met for seven days, Mr. President. Sometimes it was an emotional meeting. But finally, the Conference Committee agreed to adopt a report which is closely adhering to the Senate version in the sense that the Conference Committee adopted a broader coverage of the VAT adopting the Senate version.

Senator Tolentino: Mr. President.

The President: With the permission of Senator Herrera, what is the pleasure of Senator Tolentino?

Senator Tolentino: With the permission of the distinguished Sponsor, I would like to request that we be given some time to go over this Conference Committee Report.

During the pendency of the bill in the Conference Committee, there were several publications that we read in the papers regarding a lot of lobbying by sectors with the Conference Committee, and that there had been some agreements making variations from the coverage of the VAT.

I hope that we can be given some time to compare the approved bill with what we have approved in the Senate so that we can make intelligent interpellations with respect to this Conference Committee Report, Mr. President.

I hope there will be no inconvenience on the part of the Chamber and on our Conference Committee to giving us some time for restudy.

The President: Certainly, the Body will accede to that request. But in the meantime, I think the Sponsor can go ahead and explain the work of the Conference Committee so that next time, we can entertain the interpellation of Senator Tolentino, and others who may want to raise questions. But in the meantime, let us hear the Chairman of the Conference Committee.

Senator Herrera: Thank you, Mr. President.

As I said, Mr. President, substantially, the Conference Committee Report reflects the Senate version in the sense that we adopted the substantial provisions under the Senate version which have few amendments.

Mr. President, the amendments are the following:

One, is in the registration fee for the VAT, a registered person's fee under the Senate version is P500. Now, this is raised to P1000.

Then, on the deferment, Mr. President. If we will recall in the Senate version, we deferred certain sectors for three years. What is adopted by the Conference Committee Report is, the deferment will only be for two years, but the President is given the power to exempt if the demands of the national and public interest requires.

In the case of the international cargo vessel, Mr. President, it is put under deferment for two years in the sense that export

industries are already zero-rated under the VAT. And if we have to impose a 10 percent on the freight services of international cargo, they might just pass on to the cargo owners the cost of 10 percent, and therefore, defeating the zero-rated classification of goods which are for exports. So, we are giving them two years to make adjustment on this.

The professionals, Mr. President, are also deferred. Instead of three years, to be only two years.

In the case of the sugar industry, Mr. President, we deleted also molasses as exempted. So, it will become part now of the VAT.

The other is the case of telephone. In the Senate version, we did not approve it, but now it is included in the Conference Committee Report.

These are the amendments to the Senate version, but substantially, the Report adopted by the Conference Committee is the Senate version.

I would like to ask for the unanimous approval of this bill, Mr. President. But let me put into the Record that two of our Colleagues, Senator Maceda and Senator Biazon, signed with reservation. Even during the debate of the bill in the Senate, they already expressed their reservation as far as real estate developers are concerned.

Let me also mention that even during the time when we were having Conference Committee meetings, there were lobbyists. But I would like to assure our Colleagues that we have not changed our position except on those provisions which I mentioned, and the reason for this is that there is sufficient justification to do that. In this case, we have very limited exemptions, very limited deferment, and we can truly say that this is a VAT refinement.

Thank you, Mr. President.

The President: We will accede to the request of Senator Tolentino to be given time.

I saw Senator Biazon raising his hand. We will allow our other Colleagues to make observations or interpellate if they wish.

Senator Romulo: Mr. President, Senator Biazon will make his statement when we act on the Conference Committee Report.

The President: Is there any other question or comment? [Silence]

SUSPENSION OF CONSIDERATION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 1630/
HOUSE BILL NO. 11197

Senator Romulo: Mr. President, based on the manifestation of Senator Tolentino and after consulting with the Sponsor, I move that, in the meantime, we suspend consideration of the Conference Committee Report.

The President: Is there any objection? [Silence] There being none, consideration of this Conference Committee Report is suspended until tomorrow morning.

SUSPENSION OF THE SESSION

Senator Romulo: May I ask for a one-minute suspension of the session, Mr. President.

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

It was 12:12 p.m.

RESUMPTION OF THE SESSION

At 12:13 p.m., the session was resumed.

The President: The session is resumed.

BILL ON SECOND READING
Senate Bill No. 1352 - Strengthening the
Teacher's Education Council
(Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of Senate Bill No. 1532 as reported out under Committee Report No. 200.

The President: Resumption of consideration of Senate Bill No. 1532 is now in order.

Senator Romulo: I ask that Senator Shahani be again recognized, with Senator Gonzales to interpellate.

The President: Senator Shahani and Senator Gonzales are recognized.

Senator Gonzales: Thank you, Mr. President.

Will the distinguished Sponsor help this Representation on the proper understanding of this bill and its implementation, should it become a law, by answering a few questions?

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

It was 4:52 p.m.

RESUMPTION OF THE SESSION

At 4:55 p.m., the session was resumed.

The President: The session is resumed.

Senator Romulo: Mr. President, last week, the Chairman of the Committee on Ways and Means, Senator Herrera, gave his report on the Bicameral Conference Committee on the disagreeing provisions of the House and Senate versions on the VAT refinement. But we deferred voting or approval of the Conference Committee at the request of some of our Colleagues.

CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 1630/HOUSE BILL NO. 11197 VAT Refinements (Continuation)

This afternoon, Mr. President, I move that we resume consideration of that Bicameral Conference Report for approval by this Body.

I ask that the distinguished Chairman of the Committee on Ways and Means, Senator Ernesto Herrera, be recognized.

The President: Senator Herrera is recognized.

Senator Herrera: Thank you, Mr. President.

As I have reported last week, Mr. President, I indicated that primarily it is the Senate version that was adopted by the Conference Committee with some new provisions or amendments. One amendment is with regard to the power based on certain criteria to exempt those which are classified under those that are deferred, and there are four sectors which are deferred under the Conference Committee Report.

The other amendment is that we raised the registration fee of VAT-registered person from P500 to P1000.

Another important amendment, Mr. President, is the inclusion of telephone which was not included in the Senate version. Another is that the international cargo vessels, instead of being immediately included in the VAT, was deferred for two years, because under the present VAT, export cargoes are considered zero-rated.

In the discussion during Conference, we thought that if we include immediately the freight service of international cargo vessels, they might just pass it on to the export-oriented or to export cargoes which, in effect, might only defeat the purpose of the present provision of the law, which classifies exports under zero-rated.

These are among the amendments, Mr. President, which were adopted during the Conference Committee.

Thank you, Mr. President.

The President: Is there any comment?

Senator Romulo: May I ask, Mr. President, that the Minority Leader be recognized.

The President: The Minority Leader is recognized.

Senator Tañada: Mr. President, will the distinguished Sponsor yield to some questions on the Bicameral Conference Committee Report on the disagreeing provisions of the Senate and the House versions?

The President: The Chairman will do so, if he wishes. Senator Herrera?

Senator Herrera: Thank you, Mr. President.

Senator Tañada: Mr. President, I note that in the Bicameral Conference Committee Report on the VAT measure, it appears that pesticides and herbicides are no longer exempted as we had originally approved in the Senate version.

Mr. President, even if I would agree that, eventually, our farmers have to resort to integrated pest management approach which is environment friendly, still I am worried that imposing the VAT on these critical farm inputs without a grace or transition period would be detrimental to our aspirations for improved farm productivity.

May I, therefore, be enlightened by the distinguished Sponsor as to the reasons why pesticides and herbicides are no longer exempted from VAT?

Senator Herrera: Mr. President, during the second day of the Conference, no less than Undersecretary Gerochi of the Department of Agriculture appealed to the Conferees that the pesticides should not be considered as part of the primary agriculture and that it should be included in the coverage of the VAT. According to them, there is now what they call the "pest

control management" which they are implementing. This is not just the sentiment of the Department of Agriculture but also of several farmers' group, including the FFF. They are really appealing that it should not be exempted but instead should be included in the coverage of the VAT. I understand that it is because of the harmful effect of pesticides.

These are the recommendations coming from those who are supposed to be experts in this field. We thought in the Conference that even with that provision in the Senate version, where we classified pesticides as among those to be exempted under the classification of primary agriculture, we really have to take into account the recommendations of experts like the Department of Agriculture on the matter.

In fact, Mr. President, Mr. Gerochi did not just go there on his own. He was asked by the Secretary of Agriculture himself to appeal to the Bicameral Conference Committee that pesticides must have to be included under the coverage of the VAT.

Senator Tañada: I would understand, Mr. President, if the pesticides that would not be covered by the exemption would refer to those pesticides which have been determined or proven to be harmful to the soil and to our environment. In fact, they should be banned. But there are pesticides that are not and are still being used by many of our farmers. At least, if they were not going to be exempted, perhaps a transition period could have been provided. I would expect that since these matters had been taken up and approved by us here in the Senate, we could have insisted on our position.

Senator Herrera: I would have liked to really maintain the Senate position on this matter, Mr. President. But in our own Government, we are supposed to have experts in this field, and I would suppose that the Department of Agriculture is in a better position to advise Congress regarding the effect of pesticides.

That was the consideration why the Conference Committee decided to include pesticides under the coverage of the VAT, Mr. President.

Senator Tañada: Do I take it then, Mr. President, that it is now the position of the Department of Agriculture that the use of all kinds of pesticides is harmful to the soil and to our environment?

Senator Herrera: I suppose so, Mr. President. That is why they have this program which they are launching. They call it the Pest Control Management which they are giving emphasis on. I do not know if this is the correct term.

Senator Tañada: The Integrated Pest Management, Mr. President.

Senator Herrera: Yes. They are using what they call "organic pesticides." I am not very clear of the term but that is the sense, Mr. President. Both in immediate and on a long term basis, pesticides must have to be controlled because of findings — not only by our own Department of Agriculture, but I think this is happening all over the world — that pesticides are considered harmful to health and to the environment.

Senator Tañada: Like I said, Mr. President, I have no objection whatsoever in resorting to this Integrated Pest Management approach. But there is that concern that with this step that has been taken, that is, removing the exemptions of pesticides and herbicides from the VAT, this would unduly affect the productivity of our farmers.

Moving on to another point, Mr. President. I notice that under the Bicameral Conference Committee Report, agricultural cooperatives are no longer zero-rated, and that only electric cooperatives have been granted exemption from VAT.

In the Senate version, Mr. President, agricultural cooperatives in general were supposed to be exempted from VAT. Now, it is only the electric cooperatives that are being exempted.

May we know why this has been agreed to, Mr. President?

Senator Herrera: This is due to the reports of the Department of Finance that many of the importations made by cooperatives are not really related to the business of cooperatives.

In fact, I was shocked to learn that some of these importations are in the form of video discs and other items which really do not have any relation to cooperative activities. In effect, what the record will show is that these exemptions on importations from the VAT has been abused. That is why the Government has been losing money because of this. And so, with the exemption of electric cooperatives, all should be covered by the VAT, except those which are also exempted under special laws.

Senator Tañada: Mr. President, was it established that this practice was being engaged in by a great number or a majority of these agricultural cooperatives, or was this being done only by a few of these cooperatives?

Senator Herrera: This is the rampant practice, Mr. President. The Gentleman will be surprised that we are losing to the tune of P25 billion in revenues. Of course, this is not only by cooperatives but this includes all those firms which are exempted either under special laws of the cooperatives or under the BOI. And so that was the recommendation during the Bicameral Conference Committee.

What I intend to do, Mr. President, is perhaps to require the Department of Finance to provide us with all the listings of these cooperatives, including those BOI or other firms exempted under special laws, and the abuses committed for a given number of years.

Senator Tañada: If I am not mistaken, Mr. President, as I understand it, the VAT would apply only to the output of the cooperatives but not to importation. Would that not be the case, Mr. President?

Senator Herrera: What I am trying to convey here, Mr. President, is that this is among the abuses. Cooperatives, like other firms, are exempted from the VAT including, of course, the importations of equipment needed for the business of the cooperatives, Mr. President.

Now, I would like to emphasize, Mr. President, that there is a threshold of P480,000.00 to P750,000.00 in the cooperatives which are also exempted.

Senator Tañada: Again, I would like to express my concern to this development, Mr. President, and that is the removal not only of the exemptions but also of the zero-rating of agricultural cooperatives and making only the electric cooperatives exempted from VAT. I am afraid this would become a great disincentive, Mr. President, and may have a strong negative impact on the cooperative movement as a whole.

— Moving on to another point, Mr. President. I note that banks have been granted deferment from the payment of VAT for a period of two years. Even if this would mean that the banks would eventually be covered by VAT after two years, may I inquire from the Gentleman as to what would be the basis of imposing the VAT on the banks? It seems that the banks services are unlike other transactions where the basis of the tax is easy to ascertain, and that seems not to be the case with regard to the banks. And so I would appreciate if the distinguished Sponsor could enlighten us on this matter.

Senator Herrera: There was really a long debate on this issue, Mr. President. And there were some questions raised to the Deputy Commissioner of BIR and to the Department of Finance people on this matter or the formula in imposing the VAT on banks, Mr. President.

Unfortunately, there was a debate on this issue. So that what was finally agreed is to give them time to make some adjustments on this, to make sure that the inclusion of the banking industry in the VAT will not result to an increase in the interest rate. That was really the consideration, Mr. President, to provide that adjustment. Because once the five percent that goes with the tax

will be replaced by the VAT, there were apprehensions that this might trigger an increase in the interest rates. There were some computations made. But then, to make sure that this will not really impact on interest rates, we decided to defer the imposition of VAT in the banking industry.

Senator Tañada: At this point in time, Mr. President, it has not yet been determined what really are these banking services or banking transactions that should be covered by VAT.

Senator Herrera: There were two points mentioned on this matter, Mr. President: whether this will be immediately imposed on the interest rates or spread it to the other services of the bank. But we have to make sure that this will not trigger an increase in the interest rates.

Personally, Mr. President. I would have liked the inclusion of the bank immediately, because I feel that many of the borrowers are business enterprises. And since there is such a thing as input tax under the VAT, then this will cushion whatever impact it will have on the interest rate. Because they can claim credit for the input tax. But we have also to accept the reality that there are other borrowers who are not necessarily corporations or business firms.

So to play safe on this, the Bicameral Conference Committee decided that with a mandate to the BIR and the Department of Finance to prepare a recommendation on the formula of imposing the VAT, there is a need for deferment of two years.

Senator Tañada: Can this period of two years be extended, Mr. President, without amending this measure if it becomes a law?

Senator Herrera: It cannot be extended, Mr. President. But there is a provision that if public interest so requires, the President, taking into account the impact on prices of goods and services, may, upon the recommendation of the Secretary of Finance, exclude among those considered deferred from the inclusion of the VAT.

Senator Tañada: So under that provision, Mr. President, the period of two years can be extended to another two years or at least, one year.

Senator Herrera: In fact, Mr. President, the power of the President is not to extend the period of deferment but to exclude them completely from the coverage of VAT.

I think this is a very reasonable position taken by the Bicameral Conference Committee, considering also that there are now several bills pending that will affect the banking

industry. I think within a period of two years, it is not just a question of adjustment for the purpose of implementing the VAT in order that it will not have impact on the interest rate, but perhaps to come out with a more desirable policy as far as the banking industry is concerned.

Senator Tañada: On the matter of the threshold income, Mr. President, I notice that that has been changed and the amount has been increased. May we be enlightened as to the reasons for this, and what would be the impact of this change on the revenues projected to be collected under this measure?

Senator Herrera: Mr. President, let me first start: Instead of establishing a definite amount, why are we establishing a range? And within that range, the President upon the recommendation of the Secretary of Finance, will establish the definite amount for the threshold.

The reason, Mr. President, is that, we do not want the Executive Department to always come to Congress and say, "Look, the threshold that you have established has become unrealistic and therefore, we have to amend the law."

So, we have to establish a range, and within that range, the Executive Department — and I am referring to the President — has that power to adjust the threshold.

Now, why has the threshold been increased to P480,000 as the minimum?

The reason is that, it would mean a P40,000 income. And as we know, this is the first time that we are including professionals, Mr. President. We are also including leasing of properties, and we thought that P40,000 would just be a minimum.

If we are within P40,000 below, we should not be covered by VAT because of the high cost of living now, especially in urban centers like Metro Manila.

Senator Tañada: So, if one's income is below P40,000, he will not be covered at all by the VAT.

Senator Herrera: On the assumption, Mr. President, that the threshold that will be established by the President will be P480,000 thousand. But I would imagine that the threshold could be higher than that. It would be somewhere between P480,000 and P720,000. So, it could be more than P500,000; it could be about P550,000 and that seems to be the sentiment also expressed by the Conferees.

So, if one's income is within the threshold, which means that his income is P550,000 and below, he will not be covered by the VAT, Mr. President.

So, the thrust therefore of this bill, Mr. President, is to make sure that those whose income are just enough to maintain a decent living should not be covered under the VAT.

Senator Tañada: I am glad to hear that, Mr. President, because just yesterday, I was approached by a widow whose income depends mainly on the rentals that she is getting from her two or three-door apartment.

This widow told me, "Look, Mr. Senator, we are already paying real estate taxes and these real estate taxes have just been increased by more than 100 percent, some by even 300 percent. Then, there is already the withholding tax that is being deducted even before we receive the rental. Then, we pay our income tax on our net income. And then, you are now going to impose this additional 10 percent."

She said that if this will really be the case, then she will have a most difficult time in supporting her family.

Senator Herrera: This Representation firmly believes, Mr. President, that one who has an income of more than P500,000, should share something to the Government. Below that, I am sure that this acquaintance of the Gentleman will not be paying a single centavo under the VAT because of the very high threshold.

Senator Tañada: So, on the matter of the lease, it does not really matter how much the rental is, but it will be based on the income of the lessee at the end of the year.

Senator Herrera: Yes, because this is based on gross, Mr. President.

So, I may have a five-door apartment and I am renting that out at P7000 each, then I would not be paying under the VAT coverage.

Senator Tañada: On the matter of water services, Mr. President, may we know if these are no longer exempt, because as far as I remember we intended water services to be exempt from the VAT coverage?

Senator Herrera: They are exempted, Mr. President.

Senator Tañada: So they are exempted.

Senator Herrera: Yes, Mr. President. Electricity and water are exempted.

Senator Tañada: Senator Maceda has just whispered to me, Mr. President, that if that has been done for water services, then

why had it not been done for telephone services?

Senator Herrera: In the first place, Mr. President, the data that we have is that for every six persons, only one owns a telephone. And based on that concept that this might be passed on to the consumers or the end users, then one for every six persons is the one to be affected by this.

May I also emphasize, Mr. President, that the input under the coverage of VAT does not necessarily mean that we have to pay additional 10 percent because the concept of VAT is that it replaces other taxes. So that would mean that what these telephone operators are now paying will be replaced by the VAT. That is the idea there.

Senator Maceda made, of course, a reservation on this. I would like to put that into the *Record*.

Senator Tañada: Mr. President, maybe Senator Maceda will pursue this point later.

But on the matter of the cost of dying, would it be exempt under this Conference Committee Report, Mr. President?

Senator Herrera: Yes, Mr. President.

Senator Tañada: How about NAPOCOR, Mr. President, since it is not an electric cooperative, would that be covered by VAT?

Senator Herrera: No, it is not covered. All those which are electric related sectors, Mr. President, are exempted because what was foremost in the minds of the Members, and as approved here in the Senate, is really not to impose tax on electricity.

Senator Tañada: So it is not covered, Mr. President.

Senator Herrera: No, Mr. President. It is not covered.

Senator Tañada: So the electric power being generated by NAPOCOR and even by private power firms like MERALCO would not be covered.

Senator Herrera: Yes, Mr. President. It is an absolute exemption. That is why, if the Gentleman will recall, there were press reports, while we were deliberating during the Conference Committee meeting, that this will have an impact on electricity cost. We made a clarification on this, that whatever increase the NAPOCOR might impose now on the electricity used has nothing to do with the VAT because it is not just electricity, but sectors which are related to electricity are exempted from the coverage of VAT.

Senator Tañada: Mr. President, it has been reported in media that this expanded VAT will replace about 70 existing indirect taxes. Would that be correct? And if so, what exactly would these 70 existing indirect taxes that an expanded VAT will replace?

Senator Herrera: I have a listing on this, Mr. President. Unfortunately, it is not with me now. But if we recall, during the debate of this issue, I mentioned some of them. I can immediately cite manufacturer's tax, percentage tax. These are among the taxes that will be replaced. The estimate would be about 78. Immediately what would be replaced would be about eight. So that the concept, therefore, of the VAT is not that it is a new imposition but it replaces taxes and in addition, it will simplify the tax system.

In fact, this is one of the initial tax reforms that we are instituting in our tax system in order to simplify and later reduce some of the rates by replacing many of these taxes now and expand the base. And what is very important is that with the comprehensive VAT, we will be able to establish an audit trail; so that even if we are replacing several taxes, this will still result to an increase in revenue collection because it would now be easier to determine who are those evading taxes. Under this tax system, everybody now would like to get receipts.

Senator Tañada: Have there been estimates made as to how much of the total tax take will be affected in view of this expanded VAT? And how that would compare with the potential tax take as far as the expanded VAT is concerned?

Senator Herrera: During our discussion of this particular bill in the Senate, the expected revenue is a minimum of P8.3 billion, but with this Conference Committee Report there will be an increase, because there is an increase in the registration fee from P500 to P1000. The pesticides which was excluded in the Senate version is now included. So, there will be a slight increase from the original estimate of P8.3 billion, Mr. President.

The potential of VAT is something like P62 billion but the present collection — and I think this is the 1992 data — is only about P32 billion. With this expansion, I would suppose that after two years, we might hit almost P62 billion.

Senator Tañada: Because of the expanded coverage of VAT or because of the improvement in the collection of revenues.

Senator Herrera: I think both, Mr. President, because, as I said, one of the significant features of VAT is that it will establish an audit trail and, therefore, it is very easy to pinpoint who are those not paying.

Senator Tañada: Thank you very much, Mr. President.

Senator Herrera: Mr. President, during the debate, I mentioned some of these tax measures. Since the Gentleman raised this issue, we have here the tax on restaurants and caterers which should be replaced. This is from 4 percent to 8 percent. We have the 12 percent tax on hotels and motels. Therefore, in the case of hotels and motels, the imposition of VAT would mean a loss on revenue. Six percent tax on dealers in securities; 5 percent tax on lending investors; 3 percent tax on taxicabs, utility cars and tourist buses; 3 percent tax on common carriers relative to the transport of cargo; 5 percent tax on banks; 5 percent tax on financing companies; and 5 percent tax on non-life insurance companies, Mr. President. So these are among the taxes that will be replaced as a result of the expansion of the coverage of the VAT.

Senator Tañada: Maraming salamat po.

The Presiding Officer [Senator Aquino]: I have here Senators Gonzales, Lina, and Tolentino in that order.

Senator Gonzales is recognized.

Senator Gonzales: Mr. President, will the distinguished Sponsor yield to some questions?

Senator Herrera: With pleasure, Mr. President.

Senator Gonzales: Mr. President, hearing the brilliant espousal and defense of this bill by the distinguished Sponsor almost persuade me to vote in its favor. However, in order that this "almost" can become an "altogether" commitment to vote for it, may I seek clarification on certain points?

I have been made to understand that the expanded VAT system will replace some 83 or 84 different taxes. Is that right, Mr. President?

Senator Herrera: Mr. President, what I said is immediately, there will be about eight taxes that will be replaced. The estimate of the Department of Finance would be about 78 taxes. I am asking them the listing of the 78 taxes that will be replaced by VAT.

Senator Gonzales: Mr. President, I am not only talking about the expanded VAT under this bill, but the entire VAT system. I have heard a statement to that effect during one of the conferences held at Malacañang that the VAT system will replace some 83 different taxes.

Senator Herrera: Some are immediately replaced; some will be included in this tax reform that will be deleted or that will be abolished.

Senator Gonzales: My point, Mr. President, is that this is a point not stressed to the general public. Many of those people who talked with me in connection with VAT do not seem to understand, much less appreciate the fact that VAT will replace a number of taxes. Therefore, I feel that the Government should undertake the necessary information campaign so that the people can properly understand the rationale and the effect of the enactment of this expanded VAT system. Does the Gentleman not think so, Mr. President?

Senator Herrera: Yes, I agree with the Gentleman, Mr. President. That is why in this Conference Committee Report, there is a provision for VAT administration fund which we are appropriating at 5 percent of the increase of collection over the preceding year at least for the first year. That is an automatic appropriation. But in the succeeding years, they really have to come to the Appropriations Committee to ask for this for five years.

The primary purpose is, one, the information campaign which is very important because, as I said, and as the Gentleman correctly pointed out, many, if not all, do not know that this will replace some taxes.

Senator Gonzales: I think that is very important because it is the general impression that this VAT is a new tax or an additional tax over and above existing taxes.

Senator Herrera: Yes, Mr. President.

Senator Gonzales: So that, probably, if the necessary publication of the taxes it will replace could be done, then the better it will be understood by the people.

Senator Herrera: In fact, Mr. President, on the assumption that in the first year the incremental revenues would be about P9 billion, then we can expect about P500 million more for the first year that they can use now to improve collection including the information campaign under this Report.

Senator Gonzales: My understanding of this bill, Mr. President, is that primarily, the one who will pay the tax is the seller or the transferor of goods, properties and the one who renders services, is that right?

Senator Herrera: Yes, Mr. President.

Senator Gonzales: So in a buy-and-sell transaction, it would be the seller?

Senator Herrera: Yes.

Senator Gonzales: And, for a renter of real estate, it will be the lessor?

Senator Herrera: Yes, Mr. President.

Senator Gonzales: However, the law specifically says that VAT is an indirect tax, and therefore, the amount of tax to be paid as VAT may be shifted, or passed to the buyer, or the transferee?

Senator Herrera: Yes, Mr. President, and the transferee can take advantage of the input tax.

Senator Gonzales: Now, since the tax is to be paid by one who sells, barter, exchanges, leases, renders service or imports, et cetera, in the ordinary course of trade, will the distinguished Gentleman inform this Representation how many occasions will VAT be charged and paid?

Senator Herrera: VAT will only be charged once, Mr. President, but because of the input... Let me give a specific example. If the distinguished Gentleman is a manufacturer and this Representation is a wholesaler, since in his acquisition of materials which he needs for the manufacture, he is also paying VAT, then what he has paid can be credited.

In effect, the 10 percent that we are talking about is not really 10 percent because one can get credit for the input tax that he pays. The one who buys from him can take advantage of the tax that he paid as considered now to be the buyer's input tax.

Senator Gonzales: Let us try to explain that further, Mr. President. Let us say, this Representation is engaged in the buy and sell of real estate. Now, this Representation buys a piece of land then resells it, in the first or original transaction, is VAT paid?

Senator Herrera: If that is in line with the Gentleman's business, Mr. President.

Senator Gonzales: Yes, and then the buyer resells it, is that second and subsequent sale subject again to VAT?

Senator Herrera: But he can take advantage of the tax that he paid which is now an input tax and get credit for that.

Senator Gonzales: So that, let us say, this Representation paid P1000 for VAT in the original sale, then when the subsequent sale is made, that P1000 tax payment can be credited?

Senator Herrera: Yes. That is the advantage of the VAT because it is only imposed once.

Senator Gonzales: Now, let us say, if I sell it at double the original price I paid for it, then necessarily the VAT that is due it will be bigger than the VAT that I had paid under the first sale,

is that correct, Mr. President?

Senator Herrera: Yes, but still the buyer can take advantage of the VAT that the Gentleman paid because that is now an input tax.

Senator Gonzales: Meaning that if the VAT due on the second sale is P2000 then I can credit the original P1000 that I had paid in the first sale.

Senator Herrera: That is my understanding, Mr. President.

Senator Gonzales: And that is so forth and so on?

Senator Herrera: Yes, Mr. President.

Senator Gonzales: So that it is to the interest of those involved in a transaction to obtain and preserve the invoice as well as the official receipt for the payment of VAT?

Senator Herrera: Yes, Mr. President. In fact, this will really be an additional duty on the part of those who are part of a transaction because we really have to preserve the receipts and that is the reason why under this VAT, we establish what they call an audit trail.

Senator Gonzales: But, Mr. President, obviously, the one who sells ought to keep the documents as part of his financial record. Suppose he does not want to give the same to the transferee? I need it for my own file so that when I pay my own taxes, I will have something to show that I have actually paid it. What would be the remedy in such cases?

Senator Herrera: I suppose that in the implementing rules, there should be a provision on this — whether duplicates of receipts will be allowed. I suppose it should be more practical based on the distinguished Gentleman's example that if I am the original seller, certainly I need also the receipt for my own use.

Senator Gonzales: Yes, Mr. President.

Senator Herrera: Therefore, in the implementing rules, Mr. President, this has to be clarified and duplicates should be allowed unless there is a better system.

Senator Gonzales: The distinguished Gentleman admits that this is not specifically provided in this bill but he trusts that it will be covered by the implementing rules and regulations.

Senator Herrera: I suppose so, that under the present implementing rules, it is already included.

Senator Gonzales: Yes, Mr. President. Now, the second is, when the law requires that the transaction to be subject to VAT must have been done in the course of trade, then that course of trade need not be on both sides of the transaction but only with respect to one. For example, a realtor who sells a real estate to one who uses it for residential purposes, certainly, the buyer does not buy in the course of trade but the realtor sells in the course of his trade.

Senator Herrera: Correct, Mr. President, it is the realtor who is covered under the VAT.

Senator Gonzales: So that when the law requires that the transaction be made in the course of trade, it does not require both parties to have done so as long as it is done in the course of trade by one party. That is already enough.

Senator Herrera: Yes, by the one who is covered by the VAT. It should be in the course of his business.

Senator Gonzales: There are certain sales that are subject to a zero percent VAT. In effect, they are exempted.

Senator Herrera: In effect, yes. They are exempted. But this is an important provision, especially in regard to exports because it may happen that we import certain quantity but when we export, it will be less than the quantity that we have imported. Therefore, the quantity which we have not exported should be covered by VAT; not under a zero-rated VAT.

Senator Gonzales: Let us say that a raw material is bought. That is subject to VAT.

Senator Herrera: Yes, Mr. President.

Senator Gonzales: And when it is used together with other raw materials in order to produce a manufactured product, the sale of that manufactured product is subject to VAT?

Senator Herrera: Yes, Mr. President.

Senator Gonzales: Would the VAT originally paid on every transaction involving the purchase of the raw materials be credited?

Senator Herrera: Yes, Mr. President. If I am a manufacturer, I purchase materials that I use to manufacture finished products, then I can apply for crediting.

Senator Gonzales: Now, are exports subject to zero VAT?

Senator Herrera: Yes.

Senator Gonzales: The rationale behind that is understandable. But imports are?

Senator Herrera: Imports are covered by VAT, Mr. President.

May I just clarify, Mr. President, so that we can draw a clear distinction between those that are exempted and those that are zero-rated?

Senator Gonzales: Yes, please.

Senator Herrera: Those which are exempted cannot claim tax credit. But zero-rated can claim tax credit.

Senator Gonzales: What could be the reason for such a distinction?

Senator Herrera: Because when we export, we have to pay VAT. When we export, then we claim now a zero-rated and therefore a tax credit for that.

Senator Gonzales: Now, much speculation has been raised that VAT may actually cause the increase of the fuel rates. Is there really basis for that speculation?

Senator Herrera: I do not think there is any basis for that because in this Report, we are exempting electricity and those which are electricity-related, including fuel.

Senator Gonzales: I notice that it is so in Section 4, paragraphs (e) and (f), on page 11.

In paragraph (e), it states, "Sale or importation of petroleum products;" then (f), "Sale or importation of raw materials, to be used by the buyer or importer himself in the manufacture of petroleum products EXCEPT LUBRICATING OIL, PROCESSED GAS, GREASE, WAX AND PETROLATUM."

Senator Herrera: Yes, Mr. President.

Senator Gonzales: So, in effect, these are exempt from VAT?

Senator Herrera: Yes.

Senator Gonzales: But when the National Power Corporation, for example, sells, let us say, power to the MERALCO, that is not subject to VAT?

Senator Herrera: It is not subject to VAT. Although there was a recommendation to include that, we rejected that.

Senator Gonzales: But when MERALCO, acting as a distributor, sells electricity to the consumers, would the same be subject to VAT?

Senator Herrera: No, Mr. President. That is why we are very specific on that, that electricity is exempted. As long as companies are selling electricity, they are exempted, Mr. President.

Senator Gonzales: But I understand that the National Power Corporation not only produces power but also purchases certain raw materials necessary for the production of power.

Senator Herrera: That is precisely the reason we are exempting the importation of fuel from VAT.

Senator Gonzales: How about raw gas itself?

Senator Herrera: That is exempted.

Senator Gonzales: But processed gas is not exempted?

Senator Herrera: Like what, Mr. President? We only include lubricating oil and grease in the coverage.

Senator Gonzales: What are included are "Sale or importation of raw materials to be used by the buyer or importer himself in the manufacture of petroleum products, EXCEPT LUBRICATING OIL, PROCESSED GAS, GREASE, WAX AND PETROLATUM." So, processed gas would be subject to VAT?

Senator Herrera: These are the ones that are covered under the VAT, Mr. President.

Senator Gonzales: Let us be more concrete and specific for the guidance of our people. How about LPG? Would the sale of LPG be subject to VAT, Mr. President?

Senator Herrera: That is not subject to VAT, Mr. President. That is exempted. Let me check on the provision.

I think that is covered under (f): "Sale or importation of raw materials to be used by the buyer or importer himself in the manufacture of petroleum products..." Is it not classified under petroleum products, Mr. President?

Senator Gonzales: At any rate, Mr. President, would it not be better — if that is our intention — to make it more clear and express in this bill?

Senator Herrera: That could have been the better way, Mr. President.

Senator Gonzales: Because I could see that there are some lingering doubts on this particular matter. And to the housewife and every household, this is a very important matter.

Senator Herrera: I agree with the distinguished Senator, Mr. President. That is why during the discussion, we specifically mentioned that.

Senator Gonzales: At any rate, the records would then speak for ourselves. Though I personally prefer that if that be our intention, let us make it clear and express in the bill itself, Mr. President.

Senator Herrera: I think that could have been the better way of reflecting that on the bill, Mr. President.

Senator Gonzales: All right, Mr. President.

Now, with respect to banking services which may include the issuance of bills of exchange, letters of credit and accepting deposits, et cetera, that would not be subject to VAT.

Senator Herrera: These are deferred for two years, Mr. President.

Senator Gonzales: For two years.

Senator Herrera: Mr. President, if public interest so requires, because this will have impact on...

Senator Gonzales: That would then be governed by Section 17, page 30 of this bill, Mr. President.

Senator Herrera: Yes, Mr. President.

Senator Gonzales: As far as transportation of passengers is concerned.

Senator Herrera: These are also exempted, Mr. President.

Senator Gonzales: These are exempted?

Senator Herrera: Yes, Mr. President.

Senator Gonzales: My understanding of this bill — and this will be on page 25 — is that common carriers will not pay the 10 percent VAT. However, they are to pay a 3 percent tax on gross quarterly sales. And that for various types of common carriers, there is a threshold or presumed quarterly income, Mr. President.

Senator Herrera: They are covered under that existing law

now. Then we segregated the freight services—the cargo. These are covered now under the VAT. But the passengers are not included, Mr. President.

Senator Gonzales: In other countries, Mr. President, if we take a taxi and we request for a receipt, the taxi driver is always ready with the receipt and issues one. There is no such requirement in this jurisdiction since they will not be subject to VAT. Would that be correct?

Senator Herrera: In the case of taxicab operators, they are covered, Mr. President, provided that their gross will be above the threshold. Because this threshold, Mr. President, will apply to all. So if they are within the threshold, which is a minimum of P480,000 or a maximum of P720,000, they are not covered under the VAT.

Senator Gonzales: How can that be determined, Mr. President?

Senator Herrera: It is based on their gross. If an operator has just one taxicab or two taxicabs, I do not think he can have an income of a minimum of P480,000 to a maximum of P720,000. Therefore, he cannot be covered.

Senator Gonzales: Ordinarily, that is determined through invoices and receipts issued. But apparently, since the requirement of receipts is made only after the threshold amount is reached, I am afraid that this becomes a meaningless provision.

Senator Herrera: I do not think so, Mr. President. I understand that in the case of boundary system, the driver will have to pay the operator a certain amount, and on the basis of that we can determine how much they will be charging. I understand that this is also approved by a government agency. If I am not mistaken, it is the Land Transportation Commission that approves how much they will be charging in the case of boundary system.

On the basis of the number of taxicabs that an operator has, we can determine how much will be his gross.

Senator Gonzales: Can it be shifted to the passengers themselves considering that fares are fixed by law and regulation?

At this juncture, the Senate President relinquished the Chair to Senator Agapito A. Aquino.

Senator Herrera: Not necessarily, Mr. President. As I said, there is this threshold.

If one is within the threshold, he will not be paying VAT. But if he is beyond or outside the threshold, he is therefore

covered. He has to register based on the concept that this is an indirect tax. Certainly, this will be passed on.

Senator Gonzales: Is registration for VAT purposes a requirement for all?

Senator Herrera: Yes, Mr. President. If one is a VAT-registered person, that includes branches. His business must be individually registered.

Senator Gonzales: Experience teaches us that for an effective enforcement of VAT, we should also strengthen the law that requires issuance of invoices and the preservation thereof as well as the receipts of payment. Is it not, Mr. President?

Senator Herrera: I agree with the Gentleman, Mr. President. To me that is the most important requirement for an effective implementation of the VAT. But considering that there is a crediting of the input tax, then everybody requires receipts, unless one does not want to take advantage of the input tax.

Senator Gonzales: Suppose a sale is subject to VAT, can it be subject to a sales tax by a local government unit?

Senator Herrera: As I mentioned earlier, this replaces certain taxes. But those that are not covered because they are within the threshold, they are supposed to be covered by the sales tax, as mentioned by the Gentleman, since they have to pay a certain tax.

Senator Gonzales: Can they be covered by both?

Senator Herrera: No, Mr. President.

Senator Gonzales: How about the argument that the one imposed by the local government unit is not really a tax but a license fee?

A license is different from a tax. A tax is imposed in the exercise by the State of its taxing power, while a license is issued as a regulatory measure in the exercise of its police power.

Senator Herrera: Let me take the case of the real estate, Mr. President. The imposition of the transfer tax by the province will have to continue even if they are now covered with the VAT.

Senator Gonzales: Mr. President, let us leave it at that, and I will leave it at that. The last point — and I do not want to take all of the time of Senator Herrera —

Senator Herrera: I thank Senator Gonzales for that, Mr. President.

Senator Gonzales: — will be a clarification of Section 17,

appearing on page 30, and that is the so-called deferment of the VAT with respect to certain transactions for a period of two years. It says here:

However, when public interest so requires, the President, taking into account the impact on the prices of goods and services, may, upon the recommendation of the Secretary of Finance, exclude any of the above services from the coverage of the value added tax. Provided, however, that in the event of the exclusion of any of the above services the existing applicable tax under the provisions of the National Internal Revenue Code, as amended, shall continue to be paid and the service so excluded.

My question, Mr. President, is: Initially, are they covered by VAT, but within a period of two years, the President, upon the recommendation of the Secretary of Finance, when the public interest so requires, may order their exclusion? Or, is it the other way, that they are not subject to VAT but within two years from the enactment of this law, the President may include them and, therefore, they become subject to tax?

Senator Herrera: Mr. President, there was also a long debate on this provision that while they are under deferment, they have to continue paying under the existing taxes now that they are covered and, if they have to be excluded by the President based on the conditions imposed on them, then they will continue to be covered under the existing tax.

Senator Gonzales: The fact that it needs a presidential action to have them excluded, necessarily implies that they are covered during the two-year period, Mr. President.

Senator Herrera: In fact, that is the reason, Mr. President, why we put a provision that they should be paying the existing taxes now that they are paying while they are under deferment. If we have to interpret it that way as Senator Gonzales interprets it, within a period of two years, they will not be paying any taxes anymore.

Senator Gonzales: I think there is something wrong in the language. Mr. President, I hope that your interpretation is justified by the language of this provision, because it may create some problems.

At any rate, if the President does not act one way or another, what would happen?

Senator Herrera: Then, automatically, they are covered under the VAT. They have to pay under the VAT.

These provisions, Mr. President, which the Gentleman pointed out in some seeming gray lines, have to be strengthened and the intention of the Conferees must have to be expressed in the implementing rules.

Senator Gonzales: That is right.

Senator Herrera: I see the point of the Gentleman on that issue. In fact, we had a long debate on that, Mr. President. But the intention is that, while they are under deferment, they have to pay the present taxes they are paying now.

Senator Gonzales: And in order that they can be excluded from VAT, then there must be a definitive and express action on the part of the President excluding them.

Senator Herrera: That is the contemplation.

Senator Gonzales: If there is no such action by the President, then they are covered by VAT, after the lapse of the two-year period. Would that be correct?

Senator Herrera: Yes, Mr. President.

Senator Gonzales: All right. Thank you, Mr. President, and I also thank Senator Herrera.

Senator Herrera: Thank you also, Mr. President.

The Presiding Officer [Senator Aquino]: I have in my list Senator Lina as the next interpellator. Senator Lina is recognized.

Senator Lina: Thank you, Mr. President.

Will the indefatigable and hardworking Chairman of the Committee on Ways and Means yield to some clarificatory questions?

Senator Herrera: With pleasure, Mr. President, to answer questions from the incoming Governor of Laguna.

Senator Lina: Thank you, Mr. President.

My questions are few. I understand the hard work that has been put into this Bicameral Conference Committee Report, but there are some questions that I would like to be answered so that in the implementation of this law, there will be definite guidelines which the Department of Finance will come up with.

This refers to the sale or lease, Mr. President, of real

properties. There is a provision in this proposed piece of legislation, specifically on page 14 of the Report:

(S) SALE OF REAL PROPERTIES NOT PRIMARILY HELD FOR SALE TO CUSTOMERS OR HELD FOR LEASE IN THE ORDINARY COURSE OF TRADE OR BUSINESS OR REAL PROPERTY UTILIZED FOR LOW-COST AND SOCIALIZED HOUSING AS DEFINED BY REPUBLIC ACT NO. 7279, OTHERWISE KNOWN AS THE URBAN DEVELOPMENT AND HOUSING ACT OF 1992 AND OTHER RELATED LAWS.

Mr. President, there are two kinds of contracts that relate to the sale or lease or, more particularly, to the sale of real properties. One is a contract to sell and the other is a contract of sale. The difference is that in the contract of sale, there is a change of ownership that occurs as soon as the contract is finalized and entered into. In a contract to sell, there will be a period of time, after several installments, after several years that the transfer of ownership occurs.

The question is: Will the VAT be imposed on sale of properties that is subject of a contract to sell already entered into after the approval of this law?

Let me clarify and give a specific example.

Ten years ago, a contract to sell was entered into between the seller and the buyer. The period for the contract is 25 years. So, there will be 15 years more before the real property is transferred to the buyer because the payment is on installment. The property is being amortized.

Fifteen years after the passage of the law, the property is completely transferred to the buyer.

Will the VAT cover the property at the time that the final installment is paid, or will the VAT be imposed only on new contracts?

Senator Herrera: I guess that, first, it should be determined whether the seller sold that property in connection with his business in real estate, that his business is really selling.

Senator Lina: So, if a businessman is engaged in the business of buying and selling of real properties?

Senator Herrera: Then he is a VAT-registered person, and if his income is within the threshold, then he is supposed to be exempted. The transaction is supposed to be covered by the VAT. But if his income is below or within the threshold, then he is exempted from the coverage of the VAT.

Senator Lina: That is clear enough, Mr. President.

Suppose the amount involved in the transaction is no longer covered by the threshold. The contract is one of contract to sell, meaning the transfer of ownership does not occur because the property is being amortized. The title is still with the seller, but the contract to sell has been entered into prior to the passage of the law.

Senator Herrera: Precisely. My point is, once this law will take effect — assuming that this will take effect today — and we have a businessman engaged in buy and sell of real estate, then it will be based on his income for the whole year. If it is within the threshold, then he is not covered. Even if these are just installments of the payment for the land, if the installment would result to more than the threshold, then he is covered.

Senator Lina: Well, that is my difficulty, Mr. President, that is why I am asking this question. There is a constitutional principle involved against the nonimpairment of existing contracts or obligations.

Let me repeat. The contract has already been entered into.

Senator Herrera: This is based on the gross income.

Senator Lina: Yes. Supposing the contract to sell involves an amount that is outside the threshold. Therefore, it is covered. But the point I am making is that the contract had been entered into ten years ago.

Senator Herrera: On an installment basis.

Senator Lina: On an installment basis?

Senator Herrera: And the final conclusion of the contract will be on the 25th year, when the last centavo will be paid.

Senator Lina: That is right.

Senator Herrera: What I am saying is, if one is in the business of buy and sell of real properties, on that given year his gross income will be determined. If his income is above the threshold, then he is covered.

Assuming that the installment for 1994 is P1 million, that exceeds even the maximum of the threshold which is P720,000. Then he is covered.

Senator Lina: Despite the fact that a contract is already in existence? My worry, Mr. President, is that a constitutional principle will be affected. The imposition of the VAT on an existing contract...

Senator Herrera: The VAT is imposed on a person in the exercise of his profession as a real estate broker —

Senator Lina: Is the gross not the basis, the selling?

Senator Herrera: — because the professionals are covered.

Senator Lina: I am not referring to the VAT on the professionals. It is the VAT that will be imposed on the gross selling price of the property that will be exchanged.

Senator Herrera: Precisely. My point is, since there was no consummated sale on the property, in this case, he is taxed under the VAT in the exercise of his profession as a real estate broker.

Senator Lina: Mr. President, this is not the period to really ask these questions. But I think this has to be clarified in the light of the constitutional injunction against impairment of existing obligations. We need a categorical and definitive answer to counter that objection that existing obligations will have to be respected, and the law cannot interfere in the consensual contract entered into by parties long before the passage of the law. The VAT here is not based on the profession of the real estate brokers, but the value-added tax is anchored on the gross selling price of the property.

Senator Herrera: But as the Gentleman said in the given case, there is no consummated sale. It will be 20 years from now.

Senator Lina: There is a consummated sale in the sense that the contract has already been perfected. The agreement has been forged — it is final — that the contract to sell is consummated; the parties have signed the contract, but the change of ownership will occur at a much later date.

Senator Herrera: Precisely that is my point.

Mr. President, since we are VAT-registered persons, if we have that gross above the maximum or above the threshold and have exercised our profession, we are liable to the VAT.

Senator Lina: Mr. President, the answer that has been given is really something to ponder about. Perhaps in the explanation of my vote, I will refer to the answer given by the distinguished Sponsor.

Mr. President, in this particular example that I will cite, there is a socialized housing project. A developer purchased an agricultural land, had it converted for socialized housing as defined by Republic Act No. 7279. The developer is, at the same

time, going to sell the units in that developed housing project. Will the seller of the raw land — knowing that he is selling the land to a developer for socialized housing purposes — be subject to the value-added tax?

As a backgrounder, Mr. President, Republic Act No. 7279, states that, "The private sector, participating in socialized housing, shall be exempt from the payment of the following:

1. Project-related income taxes;
2. Capital gains tax on raw lands and use for the project;
3. Value-added tax for the project contractor concerned;
4. Transfer tax for both raw and completed projects; and
5. Donors tax for land certified by the local government units to have been donated for socialized housing purposes."

Therefore the spirit of this law, Republic Act No. 7279, is that a private property that is sold for purposes of socialized housing shall be given certain incentives. And because of the dearth of available land for socialized housing, we saw to it that in Republic Act No. 7279, all those who would participate in socialized housing are given certain incentives so that they are encouraged to dispose of their land for socialized housing in view of the housing crisis in the country.

Let me go back to my question, Mr. President: Will that raw land sold specifically to a developer for socialized housing purposes be exempted from the value-added tax?

Senator Herrera: Is the seller not engaged in the buy and sell of property? My understanding in the Gentleman's example is that here is a person who owns a land and he is selling this to a developer. Now, if that is not his trade, the buy and sell of land, he is not covered. He is supposed to pay capital gains tax.

Senator Lina: But if he is involved...

Senator Herrera: The developer who is engaged in socialized housing is exempted under paragraph (s) of this bill.

Senator Lina: Regardless of how many units sold.

Senator Herrera: Regardless of how many units as long as these are socialized housing, as defined under Republic Act No. 7279. I think that is clear.

Senator Lina: That is clear enough, Mr. President. We are very happy about that.

Senator Herrera: So the underlying principle is: Is it a buy-and-sell business? If it is not his business, he is outside the coverage of VAT. If his business is buy and sell, he is covered by VAT.

Senator Lina: Even if the land will be used for socialized housing?

Senator Herrera: If the developer now will use this for socialized housing, he is exempted. Because under this provision, socialized housing is exempted as defined under Republic Act No. 7279.

Senator Lina: Mr. President, maybe, that is the gray area. A person is truly engaged in the buying and selling of land, but in this particular case where Republic Act No. 7279 encourages the participation of the private sector in coming up with more socialized housing projects...

Senator Herrera: Agreed. In fact, under this bill, we reiterated that exemption as defined under Republic Act No. 7279. Even if he is in the buy-and-sell business for socialized housing, he is outside the coverage. This is as long as these are socialized housing.

Senator Lina: That is very encouraging, Mr. President. But if the developer is not, at the same time, the owner of the raw land, the developer will purchase the land from a real estate firm that is engaged in buying and selling of land.

Senator Herrera: The real estate broker is covered under the VAT, with one exemption — if his income is within the threshold, then he is not.

Senator Lina: That is clear enough, Mr. President. What I am saying is, because of Republic Act No. 7279, the owner of the land engaged in real estate business, buying and selling of land, decides to sell his land not to anyone but to a developer engaged in socialized housing. The difference here is this: for a developer to go into socialized housing and for his socialized housing to be viable, the raw land must be priced at a certain level that will make the development of socialized housing. If the land is priced at a very high value, then the developer cannot make a viable socialized housing project.

So what I am trying to point out is, if the owner of a land, even if he is engaged in real estate business therefore has to be VAT registered because he is also outside of the threshold. If he sells the land to a developer for socialized housing purposes, then the sale involving that real estate property must be exempt from the value-added tax.

Otherwise, Mr. President, considering the dearth of real properties that can be developed into a socialized housing, then our socialized housing program will not take off if we put a premium tax on the land which is already being sold to a developer for socialized housing purposes.

This Representation does not care if the land will be sold to put up condominium units outside the definition of socialized housing, but the clear purpose of the sale by the real estate owner is to develop the land for socialized housing.

Senator Herrera: What is exempted is the socialized housing and in this case, it is the developer who is engaged in socialized housing.

We should understand that if he is covered under capital gains tax and he has to pay under the capital gains tax, it is 5 percent or 5 percent of the zonal value, whichever is higher. He might be paying more. In the VAT coverage, he will get input tax. It is lower.

Senator Lina: No, Mr. President.

Senator Herrera: Right now, real estate developers are not paying business tax, that is why, akala natin, it is cheaper when we pay capital gains tax.

Dati, puwede iyan because he can manipulate the purchase amount. What is recorded in the deed of sale is a very much lower amount but remember that there is a zonal valuation now, and it is whichever is higher.

So that, one might put in the contract of sale that he is paying a property, for instance, in Parañaque, at P100 per square meter, but if the zonal valuation is P300,000 per square meter, he pays 5 percent of the P300,000 per square meter. That is the law now, so he will be paying more.

The Presiding Officer [Senator Aquino]: With the permission of both Gentlemen, Senator Biazon wants to say something. Senator Biazon is recognized.

Senator Biazon: Thank you, Mr. President.

With the permission of the Gentleman from Laguna and the Gentleman from Cebu and Bohol, this Representation would like to pursue this line of questioning by the Gentleman from Laguna.

Mr. President, this Representation would like to make an example of one of the programs of the Government, and this is the Community Mortgage Program.

As a matter of fact, recognizing the importance of this Community Mortgage Program in relation to the Government's shelter program, the CMP's sale of land by the owner is exempted from capital gains tax.

Mr. President, by virtue of the operations of this law, it is possible that a real estate businessman selling a piece of his property that is squatted on through the Community Mortgage Program, and definitely, because of the size of his land squatted on, his gross will definitely go beyond the threshold. Will he be covered by the VAT, Mr. President?

Senator Herrera: What is very specific under this bill, Mr. President, is that, socialized housing, as defined under Republic Act No. 7279, is totally exempted. If they fall under that definition, then they are exempted. We are merely reiterating the incentives provided under Republic Act No. 7279.

Senator Biazon: Therefore, Mr. President, any sale of land by anyone under the Community Mortgage Program is exempted?

Senator Herrera: As I said, as long as this is within the definition and coverage of socialized housing under of Republic Act No. 7279, then they are exempted.

Now, if there will be any problem, the approach should be to amend Republic Act No. 7279.

Senator Biazon: Thank you, Mr. President and the two Gentlemen for allowing this Representation to interject.

The Presiding Officer [Senator Aquino]: Thank you. The Gentleman from Laguna may proceed.

Senator Lina: I will wind up all these clarificatory questions.

Therefore, Mr. President, the interpretation that the Sponsor is putting into this provision on socialized housing is the particular example that I put across as defined in Republic Act no. 7279.

Senator Herrera: Even in the sale of property intended for socialized housing, which is contemplated to be exempted under Republic Act No. 7279.

Senator Lina: So we are going to exempt it, Mr. President.

Senator Herrera: Yes. But ordinarily when one sells a property and real estate is not his business, he is supposed to pay

the capital gains tax. When I mentioned this, it can even be higher if he is covered under the VAT because under the VAT coverage he can have the crediting of input tax. In the capital gains tax, there is none. The only advantage in capital gains tax before is that one can cheat on the purchase amount. He might have actually purchased it for P1 million, but he puts in the deed of sale only P300,000, and he pays 5 percent of the P300,000. Pero ngayon hindi na iyan puwede, because there is that zonal valuation.

Senator Lina: That is correct, Mr. President. The question here is not the capital gains tax. The question here is the exemption from the value-added tax.

Senator Herrera: As long as this is within the purview of the definition of Republic Act No. 7279, then this is exempted because this is reiterated under this bill. So the Gentleman does not have to worry.

Senator Lina: Yes. I am very happy that that kind of clarification is being made. I would like to put into the record that Section 20 of Republic Act No. 7279, Mr. President, is truly very liberal as far as the grant of incentives for private sectors that are participating in socialized housing is concerned. As I said, because of the dearth of land that can be utilized for socialized housing, the prices of land have gone up. And if an owner who wants to participate in the socialized housing — even if he is engaged in real estate business but because of his love for his fellowmen — decides not to sell the land and makes a killing out of its sale, but instead of selling it to Asia Brewery or to San Miguel or to anyone who wants to develop the land for certain highly commercial transactions sells it to a developer for purposes of socialized housing, his income will be minimal, and therefore, he should be encouraged to sell it to a developer who will transform it into a socialized housing project.

Senator Herrera: May I just draw a clear distinction on this. On the sale of a property which is used for socialized housing, then that is within the coverage of Republic Act No. 7279. But in his profession as a real estate broker, if his income is beyond the threshold, he is covered by the VAT. Just draw a line.

Senator Lina: Thank you very much for that clarification, Mr. President. My only reservation is on the matter of the impairment of the obligation of contracts because under Section 10 of Article III, it is very clear that no law impairing the obligation of contracts shall be passed, and in a contract to sell, a contract is already entered into — it is final and executory — but on the 25th year, in the example that I gave, the VAT is imposed. It is imposed at the time that the property is transferred.

Who will pay the VAT, if we impose the VAT?

Senator Herrera: I guess the deciding factors here are, first, the effective date of the sale; and second — as I tried to draw this distinction — as a real estate broker, if his income is way above the threshold, he is covered. On the specific sale of the property, to me, the crucial point is the effective date of the sale. If it is before the effectivity of this bill once this becomes a law, then it is not covered. But if the sale is after the effectivity of this bill, then it is covered. There is no intention to violate, as the Gentleman said, obligation of contract, Mr. President.

In the first place, if that will violate existing contract, we know that that is unconstitutional, therefore, the law will not be effective.

Senator Lina: I will take that to mean that there will be no impairment of the obligation of contracts.

Senator Herrera: Certainly.

Senator Lina: Therefore, the effect is that this law will be prospective in application and not retroactive.

Senator Herrera: Certainly, it will be prospective.

Senator Lina: That is good enough as far as this Representation is concerned, Mr. President.

Thank you very much.

Senator Herrera: Mr. President, I am already tired. Can I sit down.

The Presiding Officer [Senator Aquino]: Yes, the Sponsor may sit down. As a matter of fact, he can answer questions sitting down if he pleases. The Chair has two more Senators who asked to seek clarification — Senators Macapagal and Tolentino.

Senator Herrera: May I ask my Vice-Chairman to answer the questions, Mr. President.

Senator Maceda: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Maceda is recognized.

Senator Maceda: I was about to precisely rise on a question of privilege. The voice of the distinguished Chairman is sometimes hardly audible. So, maybe, if we can suspend the interpellations for a while, Mr. President.

The Presiding Officer [Senator Aquino]: What is the pleasure of the Chairman? We can continue tomorrow.

Senator Herrera: I am sorry, Mr. President; I was not listening; I was talking to Senator Macapagal.

The Presiding Officer [Senator Aquino]: Senator Maceda recommends that we suspend the interpellation of this particular bill at this time, considering that the Sponsor has a hoarse voice.

Senator Herrera: I am sorry. During the Labor Day celebration, it was so hot, and I delivered a speech, that is why I have this hoarse voice. But we can continue with the interpellation and there are two ways of doing that. One, the Vice Chairman can answer questions for me or I will continue answering the questions.

The Presiding Officer [Senator Aquino]: Yes, Senator Macapagal, Senator Tolentino also. What is the pleasure of Senator Macapagal?

Senator Macapagal: Mr. President, I would like to ask a few clarificatory questions.

The Presiding Officer [Senator Aquino]: Yes. Who is the Vice-Chairman, Senator Herrera?

Senator Herrera: Senator Maceda, Mr. President.

The Presiding Officer [Senator Aquino]: Maybe Senator Maceda can answer a few questions at this time.

Senator Herrera: The Vice-Chairman is a very effective Vice-Chairman. He debated in the seven-day conference. So, may I ask my Vice-Chairman, Senator Maceda to answer the questions of Senator Macapagal.

The Presiding Officer [Senator Aquino]: There is a request for the Vice-Chairman to answer the questions of Senator Macapagal.

SUSPENSION OF THE SESSION

Senator Romulo: While the Vice-Chairman is going to the rostrum, may I ask for a one-minute suspension of the session, Mr. President.

The Presiding Officer [Senator Aquino]: The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 6:43 p.m.

RESUMPTION OF THE SESSION

At 6:47 p.m., the session was resumed.

The Presiding Officer [Senator Aquino]: The session is resumed.

Senator Romulo: Mr. President, the interpellation of Senator Lina has been concluded. Senator Macapagal will just make a statement after the voting.

The Presiding Officer [Senator Aquino]: How about Senator Tolentino.

Senator Romulo: Mr. President, may I ask that the distinguished Gentleman from Manila and Rizal, Senator Tolentino, be recognized.

The Presiding Officer [Senator Aquino]: Senator Tolentino is recognized.

Senator Tolentino: Mr. President, I do not know if I should speak at this moment. I asked that I be allowed to interpellate the distinguished Chairman of the Committee on Ways and Means, the Chairman of our Conference Committee panel but I decided to forego my interpellation; instead, to rise on a question of personal and collective privilege.

Since we are now discussing the Conference Committee Report itself and it is on the Floor, I have my misgivings whether I could rise on a question of privilege to intrude into the discussion unless we first suspend the consideration of the Conference Committee Report. I leave that to the Majority Leader because I do not want to be out of order.

The Presiding Officer [Senator Aquino]: The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo: Mr. President, with the permission of Senator Tolentino, may I ask for a one-minute suspension of the session.

The Presiding Officer [Senator Aquino]: The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 6:48 p.m.

RESUMPTION OF THE SESSION

At 6:49 p.m., the session was resumed.

The Presiding Officer [Senator Aquino]: The session is resumed.

SUSPENSION OF CONSIDERATION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 1630

Senator Romulo: Mr. President, so that the distinguished Gentleman from Manila and Rizal can give his comments on a question of privilege, I move that in the meantime we suspend consideration of the Bicameral Conference Committee Report on the VAT.

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

The Chair recognizes Senator Tolentino.

QUESTION OF PRIVILEGE OF SENATOR TOLENTINO
(Proposal to Submit the VAT Bill to a Referendum)

Senator Tolentino: Thank you, Mr. President.

Mr. President, when the Senate bill on the VAT was called for Third Reading, I think I voted *Yes* on this bill. I had already my misgivings about this bill at that time, but I went along with the majority and voted for it because I was made to understand by press reports that this bill is a part of the exit program from the IMF; that this program, including the VAT bill, would enable us to get out of the clutches of the IMF. For that reason, I said, I will go along and did not register a dissenting vote.

However, after that, Mr. President, the newspapers reported that Japan postponed or withheld implementation of a loan to the Philippines already approved before saying that the loan will not be given until we have an IMF-approved economic program.

The loan was to be between Japan and the Philippines or a bilateral loan not under IMF, and yet this attitude of Japan seems to indicate that as long as we continue borrowing even on a bilateral basis, we shall never be outside of the shadow of the IMF. This has made me review my position on this bill because I am beginning to doubt whether we will really be outside of the control and dominance of the IMF.

Therefore, Mr. President, with due respect to the Conference Committee headed by our able Chairman, I rise on this question of personal privilege to explain why in spite of my vote in the Third Reading, I may vote against the Conference Committee Report.

I have gone over the Conference Committee Report, Mr. President, compared it with the Senate bill as we approved it, and

I wish to extend my own personal congratulations to the Chairman of the Conference Committee and its Members for the result of the conference. It is obvious that our Conference Committee has defended very ably the Senate bill that we have approved with a few changes or amendments to the Senate bill. It is for this reason that I believe we should congratulate the Conference Committee for work well done in the Conference. I understand the work of the Conference Committee is to defend the Chamber's bill and that is what our Conference Committee has actually done.

In the beginning, I had hoped, Mr. President, that the bill as passed by the House would have been the one favored by the Conference Committee in the final agreement because I think the House version is more liberal to the taxpayer than the Senate version. In fact, there were news reports that the IMF did not like the House version but preferred the Senate version which would raise more revenue than the House version.

But although our Conference Committee has done a very good work in the conference, this gives me the chance to express my views on the bill itself, as it will be finally approved. Because my failure to vote on the original bill was, to my mind now, based on a wrong impression of the control of the IMF over the Philippines.

I will say, Mr. President, as a general statement, that I have participated in the enactment of many tax laws in the past. I have heard explanations of tax bills but this is a tax bill in which the explanations I have heard have never been satisfactory.

A question asked by Senator Gonzales this afternoon was a very important question regarding the number of taxes that could be replaced by the present bill — the VAT. This has been reiterated by the Department of Finance which has said that some 80 taxes would be replaced by the VAT. Until now, Mr. President, nobody has specified what are these taxes to be replaced. Until now, nobody has told us how much the Government is going to lose by those taxes that will be replaced by VAT. All that we know is that the present bill is supposed to raise some P8 or P9 billion in revenue.

I have been very anxious to learn what these taxes are that will no longer be collected after the VAT bill has become a law. But this is something that has never been clarified.

Mr. President, in its present form, I am sorry to say that this is perhaps the worst piece of tax legislation that this Congress will ever produce. Fundamentally, this Representation has been educated in past Congresses that taxation should be progressive and should hit the persons who are best capable of paying taxes. In other words, a progressive legislation on taxation does not

permit the person taxed to shift the burden of taxation to others. That is why when we tax the rich, the rich pay and do not pass the burden to others. This is progressive taxation. That is the ideal of public taxation.

That is why I voted very readily for this transfer tax because that is direct. The one paying the tax will not be able to shift that tax to any end user. The income tax is a progressive tax. These are the taxes that are considered as best kind of taxes.

The original bill, Mr. President, on VAT specifies that it is the vendor or the lessor or the seller of services who will pay the tax. Yet, something curious happened in the Conference Committee which destroyed the concept that was originally intended for this VAT law.

On page 1 of the Conference Committee Report now, we have this provision which I have been searching for in our original bill but which I could not find. I do not know if my eyesight has missed something, but this I did not find in our original bill.

In paragraph 2 of Section 99 on Persons Liable, it says: "The value-added tax is an indirect tax and the amount to be taxed may be shifted or passed on to the buyer, transferee, or lessee of the goods, properties or services."

It is very clear that this is now an indirect tax which is a regressive tax. It is a backward step as a tax. It is the progressive tax that should be the goal of every taxation.

But with this, what happens? The transferee or lessee or the buyer of the properties or goods or services is the one who will pay the tax, although in the original provisions, it is the seller and the transferor or the lessor who pays the tax. That is nullified by making the tax an indirect tax.

So, what happens? Let us give an example. Take the case of the McDonald's. I think it is buying and selling; it is engaged in business; it is above the threshold, and therefore, is liable for the 10 percent VAT. But with this provision, it is going to shift that 10 percent to the ones eating the sandwiches in the stores of McDonald's. The one paying the tax is the end user, the consumer, who is eating the sandwiches of the McDonald's in its store. It is not the McDonald's owner who will pay the tax. He will only be a collector of the tax from the end user. And then when he declares his tax, he says: "VAT, so much, the 10 percent, will be paid". But he already collected the 10 percent from those who ate his sandwiches.

This is a terrible effect of this bill, being a regressive bill. It is not a bill on the one who is engaged in business. It is a bill on

the one who is consuming or buying or using the services that are being sold. This is the most fundamental objection, Mr. President, to this VAT bill. It is not a bill that seeks to impose a burden on the citizen based on the capacity to pay but it is a uniform burden, whether the one consuming is rich or poor. It is, therefore, a case of indiscriminate taxation. Whether the end user is rich or poor, he pays or is burdened with the same 10 percent.

Mr. President, even as far as the people taxed here mentioned by the law or the entities taxed under the law are concerned, there is no distinction between enterprises or business which caters to the rich and business which caters to the poor. All of them pay 10 percent and, therefore, all of them will shift the 10 percent to their clients, whether rich or poor—equal burden with distinct capacity to pay. That is why I say this is indiscriminate taxation.

I am not going to the detail, Mr. President, but anybody reading this bill will see that in the enumeration of people who are to pay the tax, there is no distinction between the banks engaged in million-peso business, and the restaurant owner, the Goodah, for instance, engaged in the selling of *nilugaw* to poor people.

Mr. President, I do not know how seriously we are passing this bill without consideration of this basic principle that should rule taxation.

Now, Mr. President, there are certain specific provisions here which I find antiprogressive. It seems to be contrary to our desire for progress. For instance, in the list of exempt articles, there used to be an exemption for books. There used to be an exemption for printing, publication, importation or sale of books and any newspaper, magazine, review, or bulletin which appear at regular intervals with fixed prices for subscription and sale and which are not devoted principally to the publication of advertisements.

Now, that is not exempt. That will now be covered by the 10 percent VAT tax. My goodness! Newspapers—these are public information. Even our Constitution provides for freedom of information. And yet, we have a regressive tax being imposed on this.

Books. Books are for education. Our schoolchildren going to school and colleges, they buy books. They are now complaining of the price of books being prohibitive. Now, we still add 10 percent. What happens? Whether rich or poor, who will buy books, he will be paying the 10 percent.

Not only does the bill seek to impair freedom of information

and intellectual advancement. What is worse is, they try to impair even scientific progress.

On page 8, among those covered by the tax will be "THE LEASE OR THE USE OF, OR THE RIGHT TO USE OF ANY INDUSTRIAL, COMMERCIAL OR SCIENTIFIC EQUIPMENT." This is progressive; this is to promote progress, and yet we are imposing the tax on this, Mr. President.

Next, "THE SUPPLY OF SCIENTIFIC, TECHNICAL, INDUSTRIAL OR COMMERCIAL KNOWLEDGE OR INFORMATION." Why? Why are we stepping backwards? Why are we not trying to promote industrial, scientific knowledge and information? Why try to impair that progress by imposing this tax, Mr. President? That is not only regressive, it is actually a backward step in our advance to the so-called "Philippines 2000."

And here is something more. On page 7, it says: "THE LEASE OR THE USE OF OR THE RIGHT OR PRIVILEGE TO USE ANY COPYRIGHT, PATENT, DESIGN OR MODEL, PLAN, SECRET FORMULA OR PROCESS, GOODWILL, TRADEMARK, TRADE BRAND OR OTHER LIKE PROPERTY OR RIGHT."

When we write a book or we make an invention, we secure a copyright or a patent. The moment the author or the inventor begins to allow the printing of his book or the manufacture of his patented invention, what happens? We impose 10 percent. Is that conducive to progress? Is that conducive to intellectual advancement?

These are some of the things I have observed, Mr. President. I have not gone very thoroughly over this bill for lack of time, but these are few instances which come to my attention. This is a case of not only being regressive, but being indiscriminate in taxation.

Mr. President, this bill has also opened certain new doors for graft and corruption. I called attention to this during the period of interpellations before the bill was finally approved on Third Reading, but it seems to have remained in the bill.

On page 7 of the bill, in the enumeration of properties and services subject to tax, it includes "NON-LIFE INSURANCE COMPANIES (EXCEPT THEIR CROP INSURANCES) INCLUDING SURETY, FIDELITY, INDEMNITY AND BONDING COMPANIES; and similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties."

Who will determine what are those similar services that are going to be taxed? It is the BIR, Mr. President.

Who will question the decision of the BIR when the law allows it to determine what are these similar services to be taxed, whether by the use of the body or mind? This is a delegation of power that is subject to abuse and opens new doors for graft and corruption in the BIR. By subjecting goodwill to sale, who will determine the value of the goodwill?

Since there is something else in this bill which says that if in the determination of the value the BIR thinks that the value is an undervaluation, then it can determine the base of taxation. In other words, if the BIR will use its own judgment again as to whether that valuation is correct or not, that is another door to graft and corruption. This has been opened under this bill because we are not specific.

The moment we give discretion to the collector, we will give him the discretion to determine how much is going to be collected.

Ten percent? Yes. But what about the base? How much will be the base? So the amount will depend upon the discretion of the one determining whether the service is similar or the valuation given by the taxpayer is too small.

Mr. President, as I said, I have not gone thoroughly over the bill for lack of time. But these are some observations that I wish to make, pointing as to why this bill should need more consideration.

The interpellation by the distinguished Gentleman from Mandaluyong, Senator Gonzales, indicates that many uncertainties are still in this bill. Even the interpellation by the Gentleman from Laguna, Senator Lina, shows that this bill is left wide open to many interpretations. And when we leave a taxation bill in that condition, it is the victim who will suffer and the victim will be the taxpayer.

Mr. President, there was a time when some officials of the Bureau of Internal Revenue, the Commissioners of the Bureau of Internal Revenue, raised the alarm that if this VAT bill is approved, it would trigger a steep increase in the cost of goods and services. That was published in a newspaper dated April 22, 1994.

If this is going to happen, as it will surely happen, because the tax is going to be shifted to the end user or the consumer, then the moment we have that increase in prices of goods and services, the next thing that will happen is labor demanding higher wages. That will make a chain reaction to the end of labor asking for higher wages, and this will give rise to a circle in the industrial sector of our country.

Higher wages, higher prices, they go together; higher wages, higher prices, back to higher wages and back to higher prices; this is dangerous, by making this bill an indirect taxation, a regressive method of taxation.

Now, Mr. President, I really am convinced. I would have wanted to avoid speaking on a matter like this. I know how hard our Committee on Ways and Means, particularly our Chairman, has worked hard, very hard, for this bill, and I hate to stand here now and to say the things I have said and, perhaps, a little more if I go on through this bill more thoroughly. But I am forced to do this, because I feel it is a duty that I must do—to let the people know what kind of a bill we are enacting in this VAT bill.

There are exemptions, yes, Mr. President. But even in the case of exemptions, there seems to be no basis for them because there are matters left for taxation which deserve to be exempted also but which are not exempted.

I understand that during the Conference, there were a lot of lobbying being done by certain sectors and, perhaps, those sectors were able to secure either exemption or deferment of taxation. But those who are inarticulate, the common men who will ultimately bear this tax, are not an active sector. They will just bear and suffer the tax. But even, as I said, in those exemptions, there seems to be no uniform basis in those deferments of taxes for two years, why are we going to defer, for instance, a tax on professionals, if we do not defer a tax on restaurants and eating places, which deserve more deferment or exemption?

This, to my mind, is a discriminatory feature of this bill, and that discriminatory feature appears also in the conversion of the deferment to exemption. Under a provision cited by the distinguished Gentleman from Mandaluyong, where the bill enumerates those services which are to be deferred, there is an enumeration of the deferments, and then this paragraph under Section 17 follows:

However, when public interest so requires, the President, taking into account the impact on the prices of goods and services, may, upon the recommendation of the Secretary of Finance, exclude any of the above services from the coverage of the value-added tax.

In other words, those which will be given exemption by the President are those already given the privilege of deferment. But others which are not enumerated among the services which are going to be deferred cannot be exempted by action of the President. This again, I say, is discriminatory.

Mr. President, I do not want to take too much of the Chamber's time and the time of my Colleagues. I think it is sufficient to show the objectionable character of this tax measure. I sincerely believe that if we allow this bill to be approved in its present state, we might be committing a disservice to our own people. Most of our people do not realize the impact of this bill when it becomes a law and is fully implemented.

But let me say, Mr. President, at this stage, that I do not blame our Committee on Ways and Means for this kind of bill that we are trying to pass.

The worst objection I have to this is not intrinsically in the bill itself. The worst objection I have to this is that it is being imposed upon us by the IMF, and that Congress is now being made the scapegoat of the Finance Department, the Executive, in its almost subservient obedience to the IMF. That is, to me, the most objectionable feature of this bill which does not appear in the bill itself but which everybody knows exists.

Mr. President, this bill is not a very acceptable bill even to people with high per capita rate of income. Let me read to this Chamber some newspaper reports about VAT. Here is a report dated September 26 which we have in one of the dailies in Manila:

The expanded VAT law which was introduced in 1988 as part of the conditions of the International Monetary Fund-World Bank of their loan assistance to the Philippines seeks to increase revenue collections. Sources said the VAT law was initially opposed by the business sector, it being the direct victim of the law following the imposition of the 10 percent VAT by the Government."

This was when there was no provision that this tax is indirect and can be passed over or shifted to the end user.

They said VAT implementation is being done through the guidance of agents of the Internal Revenue Service of the United States where VAT is opposed by Americans.

Mr. President, if the Americans who enjoy a higher per capita income opposed the VAT, I cannot understand why our leaders seem to be very eager to adopt it in our country with our low rate of per capita income.

Mr. President, as I said, I blame nobody here for this kind of bill because this is being pushed by our finance managers. Very clearly, it is because of the IMF. If it is only for the purpose of increasing revenue in order to meet the requirements of our

Budget, we do not need this kind of legislation. All we need is to reduce the expenditures by P9 billion that is sought in this bill. We will not need this bill. It is as easy as that.

Where do we get the reduction of P9 billion? We have tried to reduce this before, the debt servicing — over P100 billion in the Budget. It is so easy to get P9 billion out of that. And we do not need this VAT for our own purposes. But we are doing this for purposes of the IMF, not for us. We could easily avoid this by reducing our expenditures and the item to be reduced is there — the debt service.

Mr. President, I feel that this bill is unnecessary for the purposes of the Filipinos.

With these considerations, Mr. President, although I voted for this bill on Third Reading, it must be obvious to my Colleagues that I cannot vote in the same way when we come to vote on the Conference Report itself. It comes to my mind that this bill is reputed and is phrased to be a tax that broadens the tax base.

What do we mean by broadening the tax base? I think the only meaning of that is, we increase the number of people who will be subject to the tax. That is broadening the tax base. Those who were not paying so much tax will be paying the taxes. As I said, the person eating sandwich at McDonald's is going to pay this tax. He is included now in the broad basis of taxation. If we include practically the entire people of this country as the base of taxation, may it not be right that we ask them if they agree to this kind of tax? I mean, would it not be just right for us to submit this bill in a referendum to determine whether our people will agree to this bill or not as a tax measure?

Our Constitution and our laws permit such a step that a referendum be held to determine the opinion of the people with respect to certain measures in Congress. Perhaps, this kind of measure simply fits in to that kind of legislation that should be endorsed to the people for their view, for their acceptance, for their approval or rejection.

Mr. President, at this time, I would like to propose a privilege motion to the effect that we suspend further consideration of the Conference Committee Report on the VAT bill and, through a process of reconsideration and recall, bring back this bill to the Senate, in the interpellation period or in their amendment period, in order that we can introduce an amendment providing that the implementation of the provisions of this bill shall be upon approval of the majority of the votes cast in a referendum to be held, let us say, within 60 days after the approval of this bill. I think we should, in view of the nature of this measure, be able to agree to submit this to our people in a referendum. If we ever do

that, then we are respecting the rights of the people to express themselves on a matter which will directly affect them. And we are just going along with the concept of people empowerment as already developed by our distinguished president, President Fidel V. Ramos.

Thank you, Mr. President.

The Presiding Officer [Senator Aquino]: There is a motion on the Floor. Senator Maceda would like to inquire. What is the pleasure of Senator Maceda?

Senator Maceda: Mr. President, before we act on the motion, may I direct a few questions to the distinguished Gentleman from Manila and Rizal in view of the far-reaching effects of the statements made in his question of privilege?

The Presiding Officer [Senator Aquino]: What is the pleasure of the Gentleman from Manila?

Senator Tolentino: I would gladly yield, Mr. President.

Senator Maceda: Thank you very much, Mr. President.

Mr. President, I must say at the outset that I am sympathetic to practically all the sentiments expressed by the distinguished Senator from Manila and Rizal. But in the same manner as he has confessed a certain amount of confusion with regard to this bill, I must confess the same. While this is my third term in the Senate, I yield to his superior judgment and experience, having served much longer in the Senate than this Representation.

Mr. President, the first question I would like to raise to the Gentleman is the question of a clear implication by his statements that maybe, we have not been sufficiently discussing, debating, winnowing, and researching an important measure such as this at the Committee level, and more importantly even during the period of debate.

Now, Mr. President, should that be the first area of improvement in the consideration of tax measures?

Senator Tolentino: I agree, Mr. President.

Senator Maceda: Mr. President, agreeing as the Gentleman does, may I know why most of these items that he raised were not really raised by the Gentleman or other Members of the Senate during the period of interpellations, during which we all accept that there is really no cloture rule, no limitation on the right to ask interpellations/questions during that time?

Senator Tolentino: I have explained that, Mr. President, by

the fact that I was inclined to go along with the leadership of this Chamber with respect to this bill. Because I was under the impression that this was going to be a part of the exit program from IMF. I am more interested in getting out of the IMF influence. And so I did not go into the details of this measure. I asked only a few questions. I introduced a couple of amendments, just for the improvement of the bill.

Senator Maceda: Mr. President, having said that, would it be proper therefore to deduce that if the Chairman of the Ways and Means Committee could reconfirm from the Department of Finance or better yet, from the President of the Philippines that the present bill, no matter how defective in some parts, according to the Gentleman's very scholarly explanation, would assure the exit program for the Philippines, would he then accept the bill even with its imperfections?

Senator Tolentino: If the assurance will come from the IMF, I will accept the assurance.

Senator Maceda: Mr. President, may I go to another point on which I would like some guidance from the Gentleman from Manila and Rizal, a point that has always bothered me when we took up the Land Reform Code, the death penalty bill and the other major pieces of legislation.

As in this particular bill under consideration through a Conference Committee Report, where we have so many provisions and so many items covered, and there are certain amount of provisions or items that he feels are good, he accepts that certain items that have now escaped, VAT taxation, because of the imperfection of the original law, should be covered. On the other hand, as the Gentleman has pointed out, there are provisions that are defective or unacceptable. This happens always in a Conference Committee Report.

The question is this: How does a legislator weigh the conflicting weights or value of the different provisions? Will one objection be enough for him to vote against the entire bill? Or should we go into a system where 51 percent of the provisions of the bill is acceptable and favorable, and less than 51 percent is unfavorable? This is always the question that faces a legislator and maybe, for us and for future generation of legislators. The Gentleman from Manila and Rizal can give some guidelines when should a legislator consider certain defects as substantial enough to motivate him to vote *No*. Or can he disregard certain defects as long as the majority of the provisions of the bill is favorable, and may be derived from the basic principle underlying a democratic system of the greatest good to the greatest number?

Senator Tolentino: Mr. President, as to determining

whether a legislator should vote for or against a bill on the basis of how many good features there are or how many bad features there are, that would depend entirely on the judgment of the legislator. Nobody can say that this is my judgment and that should be followed. Everybody has its own way of looking at things.

But one thing I can say is that, perhaps, we cannot determine how we stand on a bill simply on the number of good qualities and the number of bad provisions. We have to evaluate. Because one bad provision may be enough to outweigh even ten good provisions. So it is a matter of weighing them.

For instance, in my case, I would consider that if a bill, to my mind, is clearly unconstitutional, I would vote against it whatever 10, 11, or 12 provisions there are which may be good. So it is a matter of evaluating these good or bad provisions. And each legislator answers to his own conscience, to his people, and to his God.

Senator Maceda: In this particular bill, Mr. President, does the Gentleman find anything or any provision as violative of the Constitution or unconstitutional?

Senator Tolentino: As I say it, this may not be directly violative, but it is against the objectives of the Constitution. Imposing a tax on freedom of information, scientific progress, and educational advancement, I think these are sufficient to outweigh any advantages. Because the advantages that are being pointed out are advantages only in increase of revenue for the Government. They are not advantageous to the people.

Senator Maceda: Mr. President, in the case of multiprovision bills such as this and others that I have already cited, is it not traditional that the way to deal with certain gray areas that may infringe on the Constitution is to provide for a separability clause?

Senator Tolentino: Yes, but I am not talking about the Constitution in my speech.

There was something I observed but I did not mention it anymore because it might have been covered by some provisions which I have to examine in order to make a conclusive judgment.

For instance, I would say that there are more than two subject matters included in this bill. It is not only the VAT system, no. We have provisions there on taxes on franchises, taxes on insurance system, and others which are not a part of the ten percent VAT. But I did not raise these because I saw also some provisions in the Title repealing or amending certain numbers of sections in the Internal Revenue Code which I have not

examined. So, I did not mention these, Mr. President.

Senator Maceda: Mr. President, for the record, this Representation must say, having been a member of the Conference Committee, that he did argue against the tax on restaurants and caterers, and serving of food, as the distinguished Gentleman mentioned, using the McDonald's chain as an example.

For the information of the Gentleman, Mr. President, it is worse than that because if we were to use the P480,000 a year threshold rate, which is in the bill, this Representation pointed out that that is only P40,000 a month divided by 30 days — that is only about P1300 a day. And every carinderia in the "sabungan," every carinderia on the jeepney stops, even the carinderia here in front or at the back of the Senate is already grossing more than P1300 a day.

So that even the threshold that was adopted as far as applying to eating places is concerned is going to cover practically all the eating places including *turu-turo* and carinderias because, by information, the ordinary *turu-turo* now makes at least P5000 or P6000 a day.

We also fought against the inclusion of pesticides but we were ruled out. We also fought against the inclusion of telephones and taxation of media.

But the problem. Mr. President, is this — and this, the distinguished Gentleman knows himself as he is now also in a Conference Committee on the Bank Liberalization bill — that ultimately, it has got to be a give and take with the other panel of the House.

So, this Representation wants to ask again the distinguished Gentleman on what issues would a Senate panel be justified to break off the Conference Committee, considering that in the nature of Conference Committees, we have to yield on certain issues to the other panel, which is the House panel.

This Representation has never attended the Conference Committee on a major bill where all the provisions of either the House bill or the Senate bill are adopted. In the end, it boils down to a compromise bill.

Senator Tolentino: That is correct, Mr. President. This Representation does not think that there is any Conference Committee, at least that he knows that has come back with only one bill entirely approved. There must always be some give and take of compromises on varying provisions or conflicting provisions of House and Senate Bills. But as to what time they could break off or somebody would ask for a breaking off the conference, that is entirely a matter of judgment as what each panel

considers as non-negotiable.

When one panel considers one provision as non-negotiable and then the other panel does not want to agree on that, it may bring about a break off or at least a suspension of the conferences between the two panels.

Senator Maceda: Mr. President, this Representation has many more questions to ask but it is quarter to eight, and really, a motion has been made. The bill is actually in its end stage. He really wonders whether the deficiencies of the bill are sufficient in nature now to overturn it at this point. I really wonder whether we are, in a sense, in some of the points pointed out, "estopped" because those were issues that were present even then.

Like the question of the indirect nature of the tax. Whether it was in the provision of Section 1 or not that it was an indirect tax, it was clear from the very beginning that this was going to be passed on to the consumer for being an indirect tax. And I would like to think that our Rules here to a certain extent, in effect, prescribe that everything is subject to timely objection, and if at a certain point, any Member of the Senate does not raise timely objection, then the general rule is that he waives his right to object.

So I really wonder if any of the points brought out by the Gentleman from Manila and Rizal are really new in the sense that they could not have been discovered, pointed out or objected to during the period of interpellations and the period of amendments.

Thank you, Mr. President.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Aquino]: The Majority Leader is recognized.

Senator Romulo: We have the Bicameral Conference Committee Report. We have extensively debated on this bill in full, from the time it was discussed in the committee up to the time we considered it on Second Reading. In fact, this is a bill so extensively debated in all its stages before we approved it on Third Reading and we overwhelmingly voted in its favor.

Therefore, Mr. President, I feel that at this stage, it only remains for us to vote *Yes* or *No* to the Bicameral Conference Committee Report. However, since the distinguished Gentleman from Manila and Rizal, Senator Tolentino, has raised a motion — unless he is withdrawing it, and I understand he is not — then all that remains for us to do is to vote on his motion, and I would like to accommodate the distinguished Colleague, but I

am afraid that I would have to object to that motion and vote *No*.

Therefore, Mr. President, I ask that we vote on that motion and then afterwards resume consideration of this Bicameral Conference Committee Report so that we can vote *Yes* or *No* on said Report.

Since the distinguished Gentleman from Manila and Rizal has raised a motion on his question of privilege, I ask that we vote first on that motion — I am voting *No* on that — and then afterwards we go to the Bicameral Conference Committee Report.

Senator Tolentino: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Tolentino is recognized.

Senator Tolentino: I would like to ask if the distinguished Majority Leader would agree to a nominal voting on my motion.

Senator Romulo: Yes, we have no objection to that, Mr. President.

Senator Tolentino: Then I ask for a nominal voting, Mr. President.

The Presiding Officer [Senator Aquino]: Yes. Does the Gentleman from Manila and Rizal wish to restate his motion or is it clear to everybody, basically, to recommit the Bicameral Conference Committee Report?

**MOTION OF SENATOR TOLENTINO
(Reconsideration to Amend the VAT Bill for a
Referendum)**

Senator Tolentino: No, not to recommit it. My motion, as far as I can reproduce it now, is to suspend further consideration of the VAT bill, and by series of recalls and reconsiderations, bring back the bill to the stage of individual amendments, so that we can propose an amendment that would provide that the implementation of this Act after approval shall be made upon approval by a majority of the votes cast by the people in a referendum to which it shall be submitted within 60 days.

The Presiding Officer [Senator Aquino]: All right, shall we have a nominal voting?

If one votes *Yes*, that means he is in favor of the motion of Senator Tolentino; if he votes *No*, that means he is against the said motion.

Senator Tafiada is recognized.

Senator Tañada: May I ask a clarificatory question to the distinguished Senator from Manila, Mr. President.

Senator Tolentino: Yes, Mr. President. Very willingly, I would like to reply.

Senator Tañada: Would the distinguished Senator consider an amendment to his motion so that the motion will just be to send back the Bicameral Conference Committee Report to the Senate Floor for possible amendments without including at this time the call for the submission of the bill to a referendum to be approved by a majority of the electorate?

Senator Tolentino: I did not get that. Is the suggestion to the effect that we amend the Bicameral Conference Committee Report on the Floor now? We may not be able to do that.

Senator Tañada: Mr. President, as I take it, the distinguished Senator is moving for the suspension of the further consideration of the Bicameral Conference Committee Report. And he mentioned that with the suspension of the further consideration of the Bicameral Conference Committee Report, perhaps we could go back to the period of amendments so that we can propose what we consider are the amendments needed to take away the defects that have been pointed out in the Bicameral Conference Committee Report. My proposed amendment is to exclude at this time the proposal to submit this bill in a referendum to be called for that purpose.

Senator Tolentino: Yes. My main purpose, Mr. President, is to allow an insertion of this provision regarding a referendum. But, of course, the moment we put the bill to a period of amendments, we can also remedy some of the defects which we have noticed.

Senator Tañada: I was proposing, Mr. President, if at this stage we can do without that call for submission of this bill to a referendum and to just limit the motion to the suspension of the further consideration of this VAT report in order for us to be able to bring this back to the Senate and go back to the stage of period of amendments.

Senator Tolentino: Mr. President, whether a proposal for a referendum will be acceptable to the Chamber or not will actually depend upon the majority. But I feel this is one case which is so important to the people that they should be heard.

Senator Tañada: I would agree, Mr. President, and I am proposing this amendment precisely because I share the sentiments that the distinguished Senator has expressed. But I am afraid that if the motion will include the submission of whatever amendments we will come out with to a referendum, then the

motion for suspension of further consideration of this measure may not be approved by the Chamber. I am thinking that if we will not consider that portion which would make reference to the submission of whatever amendments will be made to a referendum, the motion for suspension of further consideration of this VAT report could stand a better chance of approval by this Chamber.

Senator Tolentino: Mr. President, if a bill is recalled to the Floor and we have the stage of period of amendment, I suppose it becomes open and any amendments can be introduced. If the bill can be so cured that most of the objections that can be raised can be remedied, then we may actually reconsider our position of submitting to a referendum. But until that time is reached, I do not think I can just say we will not propose a referendum provision if it is recalled to the Floor. What is important is that it first be recalled to the Floor.

Senator Tañada: With that understanding, Mr. President, the motion will, in effect, be to suspend the further consideration of this VAT report so that it can be returned to the Floor for consideration of whatever amendments may be submitted by the Senator.

Senator Tolentino: I would agree to an amendment to that effect, Mr. President.

Senator Tañada: Then I would so propose it, Mr. President,

The Presiding Officer [Senator Aquino]: So we now have the motion of Senator Tolentino as amended by Senator Tañada. Are we ready to have a roll call vote?

Senator Romulo: Yes, Mr. President. I just want to state that a *yes* vote is in favor of the motion of Senator Tolentino, as amended, and a *no* vote is not in favor of the motion of Senator Tolentino.

The Presiding Officer [Senator Aquino]: That is correct. In favor or against.

The Secretary called the roll and the result of the voting was as follows:

Yes - 3

Senator Coseteng
Senator Tolentino*
Senator Tañada

No - 12

Senator Alvarez	Senator Macapagal
Senator Aquino	Senator Ople
Senator Biazon	Senator Rasul
Senator Herrera	Senator Romulo
Senator Lina, Jr.*	Senator Webb
Senator Maceda	Senator Angara

ABSTENTION - 0

EXPLANATION OF VOTE OF SENATOR MACEDA

Senator Maceda: May I explain my vote, Mr. President.

As stated in the earlier interpellation, I am truly sympathetic to the substantive points raised by the distinguished Sponsor of the motion. However, I believe that there has to be a certain amount of finality or respect for the established procedures of this Chamber. Secondly, I feel that what is being sought to be achieved here could really be achieved if in the voting on the Conference Committee proper, a sufficient majority votes No to the Conference Committee which would, in effect, send the Conference Committee Report back to a new Conference Committee where any further amendments or provisions could be discussed.

I would just like to say that we owe the distinguished Gentleman from Manila and Rizal a debt of gratitude for bringing up the points that he brought up. Certainly, it has, in the case of this humble Representation, emphasized the fact that we must be a little more diligent and zealous in discussing bills during the Floor debates on Second Reading.

I believe that many times, we have been under pressure in one form or another including physical weariness, sometimes the lateness of the hour, the hungriness of the persons involved, representations both from the leadership in the Palace as well as the Senate and as well as the Sponsors who are on the Floor.

I would like to say that the lesson in the way that this bill has come to this stage is the fact that when it comes to tax measures specifically, every Member of this Chamber must participate fully and lengthily in the deliberations.

That having been said, I regret that I cannot support the motion. I vote *No* as I said because I think, using as a parallel the legal principle of estoppel, all of us, including this Representation are already in "estoppel" to raise objections to certain provisions where through a timely intervention on the Floor during the period of interpellations or period of amendments, we could have pointed out the defects that we are pointing out now.

*With explanation of vote

Thank you, Mr. President.

The Secretary:

Senator Osmeña
 Senator Rasul
 Senator Revilla
 Senator Roco
 Senator Romulo
 Senator Shahani
 Senator Sotto
 Senator Tañada*

EXPLANATION OF VOTE OF SENATOR TAÑADA

Senator Tañada: Mr. President, on Third Reading, I voted with reservation. On the Bicameral Conference Committee Report, I likewise voted with reservation because I had already serious doubts as well as objections to a number of the provisions incorporated in this expanded VAT measure. Suspending the further consideration of the Bicameral Conference Committee Report so that it can be returned to the Bicameral Conference Committee again for further consideration, and after that, if that is not enough, to each of the Bodies, the Senate or the House, I believe, will not be a precedent-setting step.

If I am not mistaken, this has happened before in the past. This will not be the first time that this will take place. Considering that this is a tax measure, and in the light of the very serious flaws, defects and inadequacies that have come out during the consideration of the Bicameral Conference Committee Report, I do not see any justifiable reason why this Body cannot agree to approving this motion so that we will not be approving a bill that has been seen to be not only inadequate but seriously flawed and defective.

Mr. President, there is still time for us to cure the defects. Why will we be so pressured that we cannot even take a few more days to improve on this measure? Is the imposition of the IMF really that strong on us? I would not like to think so.

So I vote *Yes* to the motion of the distinguished Senator from Manila.

The Secretary:

Senator Tatad
 Senator Tolentino

EXPLANATION OF VOTE OF SENATOR TOLENTINO

Senator Tolentino: Mr. President, may I just say a few

words on my vote which I suppose is already known.

I understand the implications of my motion — it will actually delay for perhaps, a few days, the ultimate approval of this bill. But I feel that procedurally it is possible and it would give us a chance to cure certain defects which may become obvious because of interpellations that we have heard on this bill, and observations of other people who may not have made interpellations.

I know the implication is principally delay. But I think that would be preferable than later on filing amendments to the bill when it has already become a law. When the injurious effects are already being felt then we will file a bill amending the law, and that would be a lot worse than simply losing a few days in order to have the bill already perfected within the Halls of Congress before it goes to the President for approval. It is in this spirit that I have presented my motion.

With respect to the portion referring to the amendment in order to provide for a referendum, that is always subject to the will of the majority of the Chamber. But I wish to express my point of view that the bill will affect practically the entire population of this country and they should be given a chance to say "Yes" or "No" to such a measure.

With this, Mr. President, I reiterate my support to my motion.

The Secretary: The Honorable Senator Webb.

SECOND ROLL CALL

The Secretary: The Honorable Senator Macapagal; the Senate President.

The Presiding Officer [Senator Aquino]: With 12 negative votes and, 3 affirmative votes, the motion of Senator Tolentino is lost.

May we now go back to the Conference Committee Report.

CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 1630/HOUSE BILL NO. 11197 VAT Refinements (Continuation)

Senator Romulo: Mr. President, I move that we resume consideration of the Conference Committee Report on the disagreeing provisions of House Bill No. 11197 and Senate Bill No. 1630. I ask now for a vote.

Senator Coseteng: Mr. President.

The Presiding Officer [Senator Aquino]: Before we vote, Senator Coseteng is recognized.

Senator Coseteng: Mr. President, earlier, if I was not mistaken, the Chair mentioned that there were two other interpellators but it was only for the reason that Senator Herrera, the Chairman of the Ways and Means Committee, was suffering from a sore throat and in consideration of that situation, it was recommended that the other interpellators, Senators Tolentino, Macapagal, and this Representation, since I was waiting for them to finish, and I still have a few questions, I was going to ask the Chair to reconsider the consideration of this Conference Committee Report tonight. And also, in view of the lateness of the hour, it is 8:10 p.m., that the interpellations continue tomorrow and the day after on this same Conference Committee Report.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Aquino]: The Majority Leader.

Senator Romulo: Senator Macapagal and the other Senators, Senator Biazon, have waived their rights to interpellate as they have stated that the questions that they wanted to raise had already been asked and had been answered. Therefore, we have given adequate and sufficient time to all for the interpellations. So, I reiterate my motion and I ask for a vote on the approval of this Bicameral Conference Committee Report.

Senator Tañada: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Tañada is recognized.

Senator Tañada: Mr. President, I believe the request of the Lady Senator is reasonable. The hour is late and she is just asking for the opportunity to raise and ask her questions tomorrow. Why are we so in a hurry to approve this measure now? I would like to second the motion of the Lady Senator that she be allowed to ask her questions tomorrow morning in view of the lateness of the hour.

The Presiding Officer [Senator Aquino]: Actually, the Chair has been continuously hearing all the Gentlemen who wanted to interpellate and I ended with Senator Tolentino; before that, Senator Macapagal; before that, Senator Lina and Senator Gonzales. There was nobody else who indicated any interpellation except at this time.

Senator Romulo: Mr. President, we have been very liberal as far as the interpellations are concerned. In fact, we could have asked for a vote on the Bicameral Conference Committee, "Yes"

or "No" last Wednesday, but because of the request of some of our Colleagues so that they can both study and ask questions to clarify, we deferred the consideration of this bill until today. I believe that in all our deliberations from the Second Reading, even the Third Reading, and in the Bicameral Conference Committee Report, we have given an opportunity for all. But Senator Coseteng never made that reservation.

At any rate, Mr. President, I have discussed it with the Chairman of the Committee on Ways and Means. He is willing to stand up and respond to the questions to be proposed by Senator Coseteng. So, I ask that Senator Ernesto Herrera and Senator Coseteng be recognized.

The Presiding Officer [Senator Aquino]: The Senator from Cebu will please muster his voice to answer the questions of Senator Coseteng.

Senator Herrera: The Chair does not have to be concerned, Mr. President. I am ready, willing and able to answer questions provided that the questions that will be raised are not repetitive. It means I will refuse to answer questions that were asked earlier. There should be new questions. I am very liberal and encourage questions to be asked especially on points of clarification, but let us also be fair that there will be no repetitive questions because all we have to do is go into the records and find the answers.

Senator Romulo: Mr. President, may I, therefore, in the meantime, withdraw my motion for a vote so that the interpellations can continue.

The Presiding Officer [Senator Aquino]: Is there any objection? [Silence] Hearing none, the motion is approved.

Senator Tañada: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Tañada is recognized.

Senator Tañada: I think there is a pending motion. We have not yet voted on the motion of Senator Coseteng that she be allowed to interpellate tomorrow.

The Presiding Officer [Senator Aquino]: She is already being allowed to interpellate.

Senator Tañada: No, unless Senator Coseteng is withdrawing her earlier motion that she be allowed to interpellate tomorrow.

Senator Coseteng: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Coseteng is recognized.

Senator Coseteng: Mr. President, my earlier motion was to be allowed to interpellate tomorrow. However, if we are going to allow a few questions today, we can always suspend after a few questions and continue the interpellations tomorrow.

Senator Maceda: Mr. President, question of privilege.

The Presiding Officer [Senator Aquino]: Senator Maceda is recognized.

Senator Maceda: I have no objection to continuing tonight. But I would like to move that we be given at least 20 minutes to eat our dinner for the sake of the health of the entire Chamber. At this point in time, it is 8:13, it would be against the health of all the Members of this Chamber if we were to continue the interpellations without eating. And certainly, with a hungry stomach, we cannot fully follow the interpellations that would be propounded and the answers that will be given.

SUSPENSION OF THE SESSION

Senator Romulo: May I ask for a one-minute suspension of the session?

The Presiding Officer [Senator Aquino]: The session is suspended for one minute, if there is no objection. [There was none.]

It was 8:13 p.m.

RESUMPTION OF THE SESSION

At 8:19 p.m., the session was resumed.

The Presiding Officer [Senator Aquino]: The session is resumed.

Senator Romulo: Mr. President, Senator Herrera will answer the questions of Senator Coseteng.

The Presiding Officer [Senator Aquino]: Please proceed.

Senator Coseteng: Thank you, Mr. President.

Before I ask our distinguished Colleague, the Chairman of the Ways and Means Committee, a few questions, I would just like to make a few remarks about what Senators Tolentino, Maceda, and Tañada had said earlier.

It is not deliberate on my part, Mr. President, to delay the session tonight. All of us are hungry, all of us have our commitments. However, after hearing Senator Tolentino, the veteran legislator, our Colleague who we look up to with highest esteem, I think neophyte legislators like this Representation had learned a lot from this experience.

If Senator Tolentino, who has been elected several times into this august Chamber, had not asked the questions at the proper time, as Senator Maceda said earlier, and allowed this to pass on Second and Third Readings without further questions by voting *Yes*, hoping that this could be the solution to our economic problems, and when the veteran legislator of this Chamber, Senator Romulo, had earlier said to me during the suspension of the session that, to some extent, he felt bad about this piece of legislation, where the burden is going to be placed on the shoulders of our people...

Senator Romulo: I rise on a question of personal privilege, Mr. President, because I did not say we delay this.

Senator Coseteng: Maybe, I was just misinterpreted, Mr. President. Senator Romulo may have said he just felt bad about the situation, and I do not know what he meant about that.

However, this only goes to show that there is really no school for Senators so we can be perfect legislators all the time. Even the most experienced, the most learned, the most respected, and the greatest lawyers in this Chamber, as in the case of Senators Tañada, Tolentino and Maceda, can even make mistakes.

My question as a newcomer in this Chamber is: Since we already knew — and it has already been pointed out — that it is a mistake, are we going to be very proud and tell ourselves that we should approve this piece of legislation tonight and not wait until tomorrow? Are we not following the Rules, Mr. President, that our people deserve now the decision of the majority to vote *Yes* and the minimum of three should not control whatever comes out?

As I said earlier, there is really no school for Senators or lawmakers. What we learned on the Floor is what we learned from experience. And if we were not sharp, smart or active enough or we were not able to think about it at that particular time, we forfeit all of these because we did not make any manifestation to ask these questions. And if we were not present in the plenary hall at that time, we should not ask repetitive questions and we should dig and look into the record for our answers.

Mr. President, the Executive Department or the IMF-World Bank is not only exerting pressure, but in effect putting a whole

ton of weight on the Members of this Chamber. I do not know if it was true, as already predicted and few other privilege speeches were made to this effect last week, that our Leadership had already committed to the President that the Senate would approve this, and that this was going to be the instrument which our negotiators will use when they deal with the IMF-World Bank next month.

As I mentioned earlier, these mistakes could be considered mistakes. I would like to liken this experience to a man who is about to kill somebody. At the last minute, he realized that he should not go through his plan, and that it should be thought of further.

To some extent, after all has been said and done, even if the debates were not as extensive as the Agrarian Reform Law or the Military Bases Agreement, perhaps we should give our other Colleagues some chance to think of the points that have been brought out by our three more experienced Colleagues.

I was intently listening to those who have something to say today from the time the interpellation started on this Bicameral Report.

Mr. President, I do not know how many of my questions had been asked before. These are questions that had been prepared as early as the 10th of March and maybe have not been asked and some, perhaps, have been asked.

But the critical point this time, at 8:27 in the evening, is: Can we, in effect, be forced or be bamboozled into approving this piece of legislation that we know fully well is going to be not just one yoke or two yokes, but maybe, a thousand yokes on our people?

Perhaps, we have to give also an opportunity to redeem ourselves and not just go through just because we have not spoken earlier or just because the people did not raise any objections. During this entire time, over the period of one or two months after painstakingly crafting this law — and I do not fault in any way the Chairman of our Committee, the Committee to which I even belong — perhaps, it is precisely this learning process, and our people will also have to learn a lesson that silence may be taken to mean as consent. But if all of us tonight go to our respective barangays or go to our respective provinces within the next few days and ask how are we going to be viewed if we pass this piece of legislation, I doubt if this is going to ever happen, if it will ever happen that our people will be on our side.

I remember that when the bases issue was being debated on, Mr. President, the full force of the Government, with its whole resources, were ready, standing by, to be used for educating our

people on that particular piece of legislation, even if the Constitution did not provide that a plebiscite could be held before Congress decided on the fate of the bases. And yet, some quarters were pushing that this be subjected to the people in a referendum so that the legislators could be guided by the sentiments of the people.

But, Mr. President, at that time, according to the surveys and media accounts, the people were in favor of the retention of the bases and that happened to be the same government position. The Government was willing to undertake the expenses, to print all the instruction and education materials so that they could be brought to the people for decision.

This time, I think the Government knows that if it is brought to the people, it is never going to stand a chance of winning, not by any margin at all; that the people are definitely going to vote "no", considering that there is mass unemployment right now, and considering that every person who tries to make a buck by his blood, sweat and tears in the marketplace, in the *turu-turo* or eateries, or wherever else they could try to earn some money to keep body and soul together, the new taxes definitely are not going to contribute to the welfare of our people.

Mr. President, we in the Senate, had also decided to deduct something like P80 billion, if I remember right, from the debt service budget which the President himself had vetoed. Now I find out from Senator Tolentino that it is only P9 billion that we expect to raise from this value-added tax to be paid by the small people, by the common *tao* and the consumers.

So, Mr. President, can we, in conscience, tonight vote and approve this measure when Senator Tolentino had only come up with his explanation, and Senator Maceda had also pointed out that we perhaps had been remiss and, maybe, those of us who did not participate earlier are to blame? But even then, can we just railroad this whole thing, vote "yes" with three dissenting votes and say that this is the overwhelming will of the majority and this is what the people want?

Senator Coseteng: Mr. President, I think that Senator Tañada and my request for a few days' postponement may allow our own Colleagues to change their minds; may allow our media practitioners to inform the people that in the absence of any objection from our own constituents, this is the right thing to do.

Can we put ourselves on the line this time, Mr. President, and say that since walang reklamong nanggagaling sa tao ay okey lamang sa kanila, kahit na ngayon ay malaman nila na iginigisa natin sila sa kanilang sariling mantika?

Mr. President, it is only a little time that I am asking for, and

if this is a mistake, then I am willing to take the blame for all these mistakes, for not having spoken earlier. Maybe Senator Tolentino is willing to take the blame or maybe Senator Tañada is willing to take the blame.

I repeat, Senator Maceda was right. Maybe we have been remiss; maybe we failed; maybe we missed out; and, maybe, we did not know that this whole thing was going to descend on us literally like a ton of weights.

I really would like to ask an apology from our Colleagues, because I am taking their time in expressing this opinion. As I said, if one wants to be a doctor, there is a medical school for him to go to; if one wants to be a lawyer, there is a law school; if one wants to be an economist, there is a school for economics, architecture, botany, fine arts or music. But where do we go to learn about these things since we are new in this ball game? Do we just accept the comments that we are dumb and stupid? Do we just take upon those of us who were smarter than others and tell us, "Wala kaming alam. We do not deserve to be in the Senate because we did not participate at the right time?"

Mr. President, if there is any blame to take along this line, I am willing to take that blame. I accept that we are not all perfect.

POINT OF ORDER

Senator Webb: Mr. President, point of order.

I think we are in the period of interpellations and I was hoping that the Senator from Quezon City would focus on interpellating our Sponsor.

The Presiding Officer [Senator Aquino]: She is just giving her preliminary statements.

Senator Coseteng: Mr. President, my motion originally was to postpone the interpellation for tomorrow. That is why I am trying to explain. Are we really going to get boxed in by the Rules of the Chamber? And since we do not know the Rules, we are stupid, we are dumb, and we are out there to fry our own people in their own lard.

Now that I am wasting the time of the honorable Gentlemen and Ladies of this Chamber because of what I am saying, maybe it is all nonsense and, maybe, we should get thrown out of this Chamber because we are rated according to how many bills we pass. We are not rated according to how many bills we vote for or against, or how many bills we may want to speak against even if it is out of time or out of schedule. And since we have a calendar to follow, since we always have to be ready with what we have to do, if we are not, then we are no good. We, as legislators, have

failed our people. The only way we will not fail our people is if we approve the VAT bill tonight. If we do not, then that means there must be something wrong with those who object.

As I mentioned earlier, I have the questions written here and prepared as early as March 10. Maybe some of them have already been asked; maybe some of them have not. But, it is 8:35 p.m. and as other Colleagues have mentioned earlier, we all have our own appointments to meet and, perhaps, even some have already cancelled. I apologize to those who have appointments tonight. I also do, but I am taking the time of the Chamber.

Senator Tolentino had also taken our time. He spoke for more than half an hour to put some sense or to give his comments that he had not earlier given.

So, I would like to find out, Mr. President, if it is still all right for us to think about it and continue tomorrow. Or, do we want to force the issue of asking a few token questions tonight and then continue the rest tomorrow? Or, are we now going to be condemned both by our Colleagues and our friends in the media that we are out of order? Maybe not out of order, but this is really not the proper procedure.

I think the points that were taken up by Senator Tolentino did not come out in the bill anywhere. It never said that it is the IMF-World Bank telling us to sign this measure. It never stated many of the things that he said. I do not have a prepared speech. I am just speaking out of a desire to ask, to seek the intelligent opinion of the Chair whether we could postpone this for tomorrow and think about it and, maybe, give some of our Colleagues a way out of this, unless we are really determined to hang our own people to look for P9 billion, charged to all the drivers of taxicabs and jeepneys, charged to all the farmers because they now have to pay a VAT.

What is this? We have a gun pointed at somebody's face. Can we still say, "No, we do not want to shoot" or do we say, "Let us shoot because we already agreed that we are going to shoot" and the time to change our mind is all over?

Senator Herrera: Mr. President.

The Presiding Officer [Senator Aquino]: I think the Gentleman from Cebu wants to reply now.

Senator Herrera is recognized.

Senator Herrera: Thank you.

Mr. President, I think we can start the interpellation. For all we know, in five, ten or fifteen minutes, we will be able to clarify

some of the points that the Lady from Quezon City would like to be enlightened.

Mr. President, what I am trying to convey here is, let us try to utilize whatever time is available now. That is precisely the point why I said earlier that as long as we will not be repetitive, we might be able to clarify some points.

Let me just make some comments on certain statements, Mr. President.

First, I think there is no attempt here to railroad the approval of this bill. I take exception to that. I am the Chairman of the Committee on Ways and Means, the Chairman of the Panel but, certainly, I will never agree to a railroading. That is precisely the reason we have to follow certain procedures.

There was a motion by the Gentleman from Manila. We discussed it, we debated on it, and then we voted on it. We have decided to vote against the motion. Now there is the request from the Lady Senator to ask some questions and I agreed to that.

The truth of the matter, Mr. President, is, what we are doing now is something that is precedent-setting. As pointed out by the Majority Leader, we could have approved or decided on this last week. But we took time and patience because there are still some questions to be raised and I can understand that. This is not an easy bill. This is a complicated bill. There were interpellations and some points of clarification raised by not just one, not just two, not just three but by four Senators. I think we also have to do justice to all of us here.

There was a period for Second Reading. We discussed this measure, we debated on it, and I agree that we should have more time to ask some questions.

When Senator Maceda interpellated me, he interpellated me very thoroughly, Mr. President, because I would like to give time to everybody. But somehow, in order to put some order here, we have to follow certain procedures. I think it would also be very unfair if all of us will be tasked to extend our patience beyond the limit just because "I arrived today and I was absent the other day; I did not participate in the previous days and I would like to participate now." If that will be the attitude of this Chamber, I do not think we will be very democratic in our ways.

Mr. President, can we put a stop to all these things and let us proceed now with the interpellation? As I said, I am willing to stand up and answer questions. Let us utilize the time available now. If there are still points that the Lady Senator from Quezon City would like to raise, I am willing to stand here up to tomorrow morning if necessary. But please do not accuse us of railroading

and all that. I have all the patience. I am a very patient person, Mr. President.

Senator Tañada: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Tañada is recognized.

Senator Tañada: Thank you.

Mr. President, I do not know if there is really any one of us here accusing anyone of railroading this measure. But, I am just surprised that at this late hour, it is 8:45 in the evening, way past our usual session hours, we are still here discussing this measure despite the motion of one of our Colleagues to have her interpellation tomorrow.

POINT OF ORDER

I like to raise a point of order, Mr. President. What happened to this motion of Senator Coseteng? If there is still such a motion that she be allowed to interpellate the distinguished Sponsor tomorrow, then let us vote on it. If the majority decision is to deny that motion, then let us find out.

Senator Maceda: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Maceda is recognized.

Senator Maceda: I just want to put into the *Record* that they brought me a cup of soup but it is not edible, Mr. President. Again, if in the future we are going to spend a late hour like this, past 7:00 or 7:30 time, that sufficient provision for good food be provided for the Members of the Senate.

The Presiding Officer [Senator Aquino]: All right. Thank you.

Senator Coseteng: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Coseteng is recognized.

Senator Coseteng: Mr. President, since we are being asked to finish this today — I do not know what you call it, maybe, it is just called rushing, not railroading — I do not want to think of how many more months and weeks we spent on this. But I am just saying, Mr. President, that it is only one day. And maybe we can ask our people to also react. I am saying this because, as I mentioned earlier, many of the points that were brought out by Senator Tolentino, were very difficult to just push aside, throw

down the drain, and say, "So what, Senator Tolentino came late. There was a Bicameral Report. And all that mambo-jambo that he said can just go out of the window. Because it is not worth anything anymore. It is done; it is a done deal. Our commitments have been made, there is no way we are going to change it." Sure, I am going to get hit for being wrong again. No problem.

Mr. President, what I am saying is that if we do not hear any objections from the people, the people who are going to pay the VAT, all this time, does that mean that we are going to stand here and say, since those people out there did not make a single peep or a comment, that means the majority in the Chamber are correct. Mr. President, it is very hard to accept that.

My first question, as I mentioned earlier, had been prepared last March 10. It was the same question that Senator Tolentino asked. It was just that it has never been answered. May I ask such a question like that because I remember that our staff also called up the Department of Finance people to ask them to send us their reply. And I thought that maybe, at one time or another, it had been answered.

The Presiding Officer [Senator Aquino]: Senator Herrera wanted to say something. Yes, Senator Herrera is recognized.

Senator Herrera: Can we now start with the interpellation, Mr. President? I think the Lady Senator has fully explained why she would like to interpellate me, and I am ready to answer questions, Mr. President.

The Presiding Officer [Senator Aquino]: Senator Coseteng will ask her first question.

Senator Coseteng: Mr. President, the value-added tax system was introduced in 1988 to replace several other taxes previously imposed by the Internal Revenue Code. Specifically which taxes did this VAT replace and how much did the Government collect from it vis-a-vis the taxes that it originally replaced?

Senator Herrera: Mr. President, this was raised earlier and mention was made that we are not very clear as to what are these taxes that were replaced by the VAT.

Let me cite what these taxes are that will immediately be replaced by approving this bill. First is the tax on the restaurant. Restaurants now are paying from 4 to 8 percent. Now, if we take out the food, we pay 8 percent. If we eat in the restaurant, we pay 4 percent. Now, I would like to emphasize this because this was raised by Senator Tolentino and he made an example like McDonald's.

Mr. President, it does not mean that when there is a VAT, then the McDonald's will cost additional 10 percent. Because we now replace it with the VAT. The present tax of 8 percent will be replaced by the VAT.

In the case of the VAT, Mr. President, there is an input tax. Everything, like the materials that they use in McDonald's sandwich, are covered by the VAT and, therefore, there is an input tax. This is not correct to say that if we approve the VAT, that would mean an immediate increase of 10 percent.

The other tax that will be replaced by the VAT is the 12 percent tax on hotels and motels. Since this will be replaced by the VAT, that would mean that the Government will lose something like P167 million, because there is a reduction from 12 percent tax now to 10 percent. So that is not correct to say that there is an immediate increase of 10 percent.

Another tax that will be replaced by the VAT is the 6 percent tax on dealers in securities. By the imposition of 6 percent right now, in fact, it is more expensive than the VAT because we do not have the input tax.

Then another tax, Mr. President, is the 5 percent tax on lending investors, again this will be replaced by the VAT.

The 3 percent tax on taxicabs, utility cars and tourist buses will also be replaced by the VAT.

The 3 percent on common carriers relative to their transport of cargoes, again, this will be replaced by the VAT.

The 5 percent tax in banks, finance companies, and nonlife insurance premiums will also be replaced by the VAT.

So immediately, Mr. President, we have nine taxes that will be replaced by the VAT. The estimate that was published by the Department of Finance will be something like 78 or 81—those are the figures that have been mentioned—this will be part of the recommendation in the Tax Comprehensive Reform Package that these taxes will be replaced by the VAT in order to simplify our tax structure and, at the same time, reduce the tax rate but expand the base in order that this will become a progressive tax.

The Lady Senator has indicated that she is also raising some of the questions raised by Senator Tolentino, and one of these is that the VAT is a regressive tax. The present VAT is regressive indeed. That is precisely the point why we are refining the VAT, because we would like to do away the regressive character of the present VAT.

Why is it regressive, Mr. President? Because a big sector is

not covered by the VAT. It is about 49 percent contribution to the gross domestic product and thus the services. So as we expand the VAT, we eliminate the inequity because the present VAT is inequitable. Therefore, we have to expand it and refine it in order to delete the inequitable characteristic of the present VAT. I hope I have answered satisfactorily the question the Lady Senator from Quezon City.

Senator Coseteng: Mr. President, it is quite disturbing, or it is alarming when we talk about expanding the coverage of the VAT. Whereby before, less people perhaps were being taxed, this time, we are going to expand the coverage, so more people are going to be covered.

Senator Herrera: May I immediately react to that so that we can capture the urgency, importance, and significance of that question.

Mr. President, it is not correct to say that we are covering especially the poor people. If we look at the sectors, the goods and services that are exempted, immediately we will be convinced that this bill protects the poor.

Let me cite, Mr. President, what are those exempted. Primary agriculture, whether these are food products or nonfood products in their original state. In our classification of primary agriculture, we include the fertilizer which is very important for our farmers.

There was a question raised regarding the pesticide—the Integrated Pest Control Management. The intention here really is to do away with the use of chemical pesticide because of its harmful effects to our health. This is the primary consideration of no less than the experts of this Government, and I am referring to those who are in the Department of Agriculture. The Department of Agriculture, as an institution, is asking that that should be covered under VAT in order to encourage the use of organic pesticides.

Mr. President, education, is also exempted; electricity, water, hospitals are also exempted. These are among those that are exempted.

What is very important Mr. President, is that there is a threshold; that if we are within that threshold which is a minimum of P480,000 to P720,000 against the present threshold of P200,000, we are also exempted.

So, rest assured, Mr. President, that it is not only that the Committee has studied this carefully, but it took the Conference Committee eight hours to go over it.

There might be some provisions which we cannot agree, but certainly, Mr. President, to say that we approve this in order to run against or not to protect the interest of the people is certainly unfair, because if there is anybody in this Chamber who is interested for the interest of the masses of our people, it is Senator Herrera, because Senator Herrera is a poor man and a labor leader.

Senator Coseteng: Mr. President, going back to my question that this is going to expand the coverage of VAT, which means that more people will have to pay for it, and considering the basic structure of Philippine society today — 2 percent of which maybe we can call the super-duper rich; 5 percent of the bottom of that sector; a 13 percent, maybe 15 percent upper middle class; and that slowly growing middle class, 25 percent; and the rest really belong to the lower classes.

So, how can we say that those who are going to pay the VAT, those who belong to the upper strata of society, are not going to pass it on to the masses who are the ultimate consumers, Mr. President?

Senator Herrera: Mr. President, this Representation is glad that the distinguished Lady from Quezon City raised this question.

The reason we are expanding the VAT is in order to cover the 2 percent of the middle class, Mr. President. That is the reason we have a refinement of the VAT law because they are not paying.

Let me cite a good example — those who are engaged in the real estate business. We are talking, of course, of the rich families in this country who are practically controlling the real estate business. They are not included under the present VAT coverage. Now, we are including them, Mr. President.

Who are hiring professionals? Who are hiring lawyers? These are the rich people, Mr. President.

Since the concept of taxing the professionals with an income of more than a maximum of P720,000 or P480,000 are the middle class, and the rich people who will be eventually paying because the concept of VAT is that, this is an indirect tax, therefore, they will charge it to their clients. Under the present VAT coverage, they are not covered, Mr. President. They contributed 49 percent to our gross domestic product.

That is precisely the reason we are amending the present VAT law in order to cover this sector, Mr. President. Because if we will not do that, we will find that the rich people are not paying under the existing VAT coverage.

Senator Coseteng: Mr. President. As Section 4 provides, there are persons or associations that are going to be affected by the imposition of a 10 percent VAT on the use or lease of properties. Would we know who these persons are? It is quite disturbing because many people actually either rent out bed-spaces or have small offices et cetera, and from our understanding — perhaps I may even be wrong — that a 10 percent VAT imposition could increase their overhead and cost of living.

Senator Herrera: Mr. President, bedspacers are not covered by the VAT law. Under this bill, if the rental of a condominium is less than P40,000, it is not even covered by the VAT because of the threshold.

So, it is a misconception that the poor people who are renting probably P500 to P2000 or P3000 apartments are covered under the VAT law. No, they are not covered. They are protected, Mr. President.

Senator Coseteng: At this point, Mr. President, for every peso earned today, how much does an average Filipino pay in taxes?

Senator Herrera: If we get the average, Mr. President, I would say it would be very deceiving because if we are talking of income tax, something like a little about two million people are paying income tax. But all of us are paying indirect taxes because everytime that we buy something, part of that is a sales tax.

The beauty now of the VAT bill is that we will be replacing all these taxes, like the manufacturer's tax, the percentage tax, and the sales tax. There will only be one imposition of the VAT, and under the VAT coverage, there is such thing as crediting of the input tax.

That is why there is a misconception, as earlier mentioned by some Speakers, that if we impose or include that in the coverage of VAT, that would mean the price or the service will automatically be added a 10 percent tax.

Senator Coseteng: Mr. President, do we take this to mean that this proposed VAT is now the alternative to the P1.00 oil levy that was crafted originally?

Senator Herrera: Mr. President, if it can be recalled, when there was this KRV and we abandoned the P1.00 oil levy, the Government was asking for a replacement. This is not really part of that. I would rather consider this as part of the revenue-raising program in order to bridge our deficit in the Government because it is very important that we can put in good order the fiscal condition of our Government so that in the process we will be able to get an exit program from the IMF.

The Presiding Officer [Senator Aquino]: With the permission of the distinguished Lady and Gentleman, Senator Maceda is recognized.

QUESTION OF PRIVILEGE OF SENATOR MACEDA

Senator Maceda: This is a serious question of privilege. It is nine o'clock. I just want to know up to when are we going to hold the session. Because if we are going to last until 12:00 o'clock midnight, I will already seriously send for some food to be bought by my assistant inside the Senate. If it will last another 30 minutes, I can still survive it. And I am really worried also about the voice of the Gentleman from Cebu and Bohol.

So, seriously, up to what time are we going to hold sessions tonight?

The Presiding Officer [Senator Aquino]: Maybe Senator Coseteng can answer that best. Is she planning to ask questions the whole night?

Senator Coseteng: Well, Mr. President, that is why I asked if I could just continue tomorrow. I think Senator Tañada has also questions, which were submitted by some organizations, that he wanted to ask. But, precisely, I did not want to ask these questions tonight.

If the Gentleman says that we cannot anymore ask these questions because it is too late and the *Rules* say so, I think I have made my statement earlier, and that is very clear. I have these questions and I mentioned this several times tonight that if possible we can ask these tomorrow. I do not think that the IMF is going to foreclose on the entire country if we do not finish this today.

Senator Herrera: Mr. President, I really do not want to be rude, but even if the distinguished Lady will ask these questions a week from now, these are questions that have been raised previously. These are in fact basic questions, and all we have to do is go over the journal or the records of the proceedings for the many weeks that I had been interpellated, and we can find answers to these questions, Mr. President.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Aquino]: The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo: May I ask for one-minute suspension of the session, Mr. President.

The Presiding Officer [Senator Aquino]: The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 9:00 p.m.

RESUMPTION OF THE SESSION

At 9:10 p.m., the session was resumed.

The Presiding Officer [Senator Aquino]: The session is resumed.

Senator Maceda: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Maceda.

Senator Maceda: My question of privilege has not been answered. May I just point out that even with only 15 Senators present with an average of three assistants, that is 45 people. There are 65 members of media who are still here in the press room. Even these poor cameramen of Sky Cable have been standing since four o'clock. According to the doctors, the digestion time is only three and a half to four hours.

There are about a hundred stenographers, clerks, not to mention about 24 marines and security guards. When we extend our sessions, lest I be misunderstood, we are not thinking only of ourselves, our health and food, but several hundred people are involved in sessions. I just want to put that into the *Record*.

Senator Coseteng: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Coseteng.

Senator Coseteng: This is precisely why as early as, I think, eight o'clock, I requested that this whole exercise be continued tomorrow.

Senator Tolentino: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Tolentino.

Senator Tolentino: With the permission of the distinguished Lady, may I raise a parliamentary question.

The Presiding Officer [Senator Aquino]: Yes, please.

PARLIAMENTARY INQUIRY OF SENATOR TOLENTINO (Insistence on the Immediate Approval of VAT Bill)

Senator Tolentino: May I ask the distinguished Majority

Leader why are we hurrying to approve this bill tonight? Why can we not do it until tomorrow?

In this country, Mr. President, if there is any place where freedom of debate should be permitted, it is here in the Senate. What do we lose by one day? That is why I want to ask a question: Why are we hurrying up to vote on this bill tonight?

Considering the question of privilege raised by the distinguished Gentleman from Ilocos Sur, Manila and Laguna, we are not the only ones affected by holding up the sessions this way. There are other people outside of the 24 Senators. So I ask that question: Why are we insisting on approving this bill tonight?

Senator Tañada: Privilege motion, Mr. President.

The Presiding Officer [Senator Aquino]: Senator Tañada.

MOTION OF SENATOR TAÑADA
(Adjournment of the Session)

Senator Tañada: In view of the lateness of the hour, I move to adjourn, Mr. President.

Senator Romulo: Mr. President, I object to that motion to adjourn. Therefore, I ask that it be put to a vote.

The Presiding Officer [Senator Aquino]: Yes. All those in favor of adjournment, please raise their hands. [*Some Senators raised their hands.*] All those against, please raise their hands. [*Several Senators raised their hands.*] Those *against* have it.

Senator Tolentino: Mr. President, I would like an answer to my parliamentary question.

The Presiding Officer [Senator Aquino]: The Majority Leader is recognized.

Senator Romulo: Mr. President, we have our own calendar and timetable. I have said time and time again that no other official dictates our calendar. This is the agenda and calendar that we have agreed upon.

In fact, we have deferred and delayed consideration of this Bicameral Conference Committee Report which we could have asked to be passed last week. But, precisely, upon request of our Colleagues, including our distinguished Colleague from Manila and Rizal, the consideration of this Bicameral Conference Committee Report was deferred until today, in support of unfettered debate and discussion even on this Bicameral Conference Committee Report on a bill that has been extensively and

intensively debated and discussed. We agreed on that.

There is no other calendar or agenda, except our own, Mr. President. As evidenced by the motion to adjourn, we have voted on that. The majority has agreed that we should not adjourn.

That is my response.

Senator Tolentino: That is not my question, Mr. President. My question is why are we insisting to stay on tonight? I did not ask why are we here debating this. I am asking why are we insisting on voting on the bill finally tonight? Is there a deadline set in our calendar for terminating this bill that have been agreed upon by the Senate itself?

Senator Romulo: Mr. President, on the motion to adjourn and our own consultation with our Colleagues, their desire is that we vote on this Bicameral Conference Committee Report tonight. So, I am guided by the majority consensus. And what was the vote? I think 12 voted in favor of continuing tonight. So, that is my guidance, Mr. President.

Senator Tolentino: Do I understand it, Mr. President, that the answer to my question is that we are voting on this tonight because the majority wants to vote on it tonight?

Senator Romulo: That is correct, Mr. President.

Senator Tolentino: If that is the answer, the majority abused its authority and held up this session knowing how many people are being put at a disadvantage about this continuation of session where we are going to have many more days before we adjourn *sine die*.

Senator Romulo: Mr. President, I do not think we are abusing our authority because we are all here and we have already agreed. In fact, after that motion to adjourn, we are going to resume consideration of the bill. Precisely, we asked for a suspension of the session so we can discuss it with the Minority Leader and our other Colleagues.

Mr. President, I am guided by the discussions that we have had, and, of course, the vote and consensus of the majority.

Senator Tolentino: Mr. President, usually when we hold sessions like this, we are told in advance so that we can make arrangements in our own calendar. When we are just taken by surprise like this, our own engagements and commitments are destroyed, because we want to stay here in the Senate Session Hall. But I see no real immediate reason except that the majority wants to exhibit its power to control the proceedings in this Chamber.

So far, we have been very cooperative with the majority. Many moves of the majority are out of order. We have never raised a point of order. But this time, it is not only the health of 24 Senators that are involved; it is not only the commitments of Senators that are involved. We have no previous warning that we are going to stay here up to this time.

The Senator from Laguna, Manila and Ilocos Sur has told us how many people are suffering already because of this extension of our time without any warning. We are being given something to eat here in the Session Hall which is even out of order. In no Parliament could there be eating in the Session Hall while the session is going on. Why do we permit this? If we want to eat, let us adjourn or suspend the session and go to the lounge and eat there. We have tolerated this in the past. But this undecorum has never been done in the Session Hall of any legislative chamber. Are we doing this just to keep us here? Mr. President, this is an abuse of the authority of the majority. It is a so-called tyranny of the majority and it should be a warning. We have been cooperating in the past. Even in points of order, this will tell us to be more strict in the future.

Thank you, Mr. President.

The Presiding Officer [Senator Aquino]: Thank you, Senator Tolentino.

Senator Romulo: We voted, Mr. President, to continue with the sessions, and so I now move that we resume consideration of the Bicameral Conference Committee Report on the disagreeing provisions on the VAT bill. Therefore, I ask that we vote to approve this Bicameral Conference Committee Report.

The Presiding Officer [Senator Aquino]: Is there any objection to this Bicameral Conference Committee Report?

Senator Coseteng: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Coseteng is recognized.

Senator Coseteng: I sat down earlier because the Minority Leader had moved for an adjournment.

The Presiding Officer [Senator Aquino]: That was already voted down.

Senator Coseteng: Yes, it was voted down. Do our Rules say, in the event this move for adjournment is voted down, that we continue with the business? Because if we do continue with the business and there are still other questions that have to be asked, they are precisely in consideration of what Senator

Tolentino and Senator Maceda have mentioned about how many people we are holding up.

My earlier motion was really to continue this tomorrow so that everybody can go home; think about it, and maybe, allow our other Colleagues even to rethink the kind of vote that they are going to cast because right now, I am afraid that it could be simply a matter of *amor propio*. Maybe it is just a matter of pride.

Since we have already said "Yes", we have to stick to the "Yes". Since we have already said "No", we have to stick to the "No". Maybe that is not a very healthy way of deciding on a piece of legislation which two of our illustrious Colleagues have already called our attention to the fact that this could have serious, severe repercussions on the majority of our people.

Senator Romulo: Mr. President.

The Presiding Officer [Senator Aquino]: The Majority Leader.

Senator Romulo: We have already voted on the motion of the distinguished Lady Senator because the motion to adjourn is, in fact, in consonance with her motion to suspend until tomorrow. If that had won, then by the nature of things, we would have to take this up tomorrow. But we precisely asked our Colleagues and the vote, Mr. President, is 12-3 or whatever. And so, we have accepted her motion and we have voted it, Mr. President.

The Presiding Officer [Senator Aquino]: I think we were voting earlier. All those against, I saw three hands; all those in favor of the Conference Committee Report, please raise your hands.....

Senator Romulo: May I now ask for a one-minute suspension of the session, Mr. President.

The Presiding Officer [Senator Aquino]: I think we are in the middle of the voting and....

Senator Romulo: The Chair is right. After that.

Senator Maceda: No, we have not started voting, Mr. President. The Lady from Quezon City was asking a parliamentary question whether with the defeat of the motion to adjourn, she could still be allowed to continue her questions.

Senator Romulo: Well, the parliamentary issue is whether her motion to continue tomorrow can be taken, and I have answered that, Mr. President. That we, in fact, took it when the Minority Leader presented a motion to adjourn. Now, that is where it is, Mr. President.

Senator Maceda: Yes, but does that mean to say that not being allowed to continue tomorrow that she will not be allowed to continue tonight?

I support the statement of Senator Tolentino that if there is one place, the Senate, where debate should be allowed for as long as any Member of the Chamber wants to ask questions, fine. I do not think that the Lady Senator can take more than two or three hours, I do not know. I really am not comfortable with restricting the right of a Member of this Chamber from asking clarificatory questions where she is not finished.

Senator Romulo: Well, Mr. President, that is why she has the Floor. I merely answered in response to that issue of postponing it tomorrow, which I just stated, had already been taken up in the motion to adjourn. Now, she is on the Floor. It is up to the distinguished Chairman of the Committee on Ways and Means if he would continue to entertain the interpellations. I leave it to them, Mr. President. That is all I am saying.

The Presiding Officer [Senator Aquino]: Senator Herrera is raising his hands earlier. Senator Herrera.

Senator Herrera: I just would like to take exception to statements like, "We might be voting because of pride, et cetera." Mr. President, we are not children here. We are Senators, we are matured people, we are responsible, and I think we are all intelligent.

The Presiding Officer [Senator Aquino]: Senator Rasul is raising her hand for the first time.

**PARLIAMENTARY INQUIRY OF SENATOR RASUL
(Interpellations Limited to Disagreeing Provisions of Bills)**

Senator Rasul: Mr. President, I just would like to raise a point of order. In the past, when the Conference Committee Reports were presented to this august Chamber, interpellations concerned the disagreeing provisions of the Senate bill and the House bill. We never raised substantive questions which properly should be raised during the period of interpellation. What is happening tonight is unprecedented.

And so, I would like to raise a parliamentary inquiry, Mr. President. In the ratification process of the Conference Committee Report, do we go back to the period of interpellations? Do we raise questions which would have been asked during the period of interpellations? Or do we limit our questions to the disagreeing provisions of the Senate bill and the House bill, Mr. President?

The Presiding Officer [Senator Aquino]: Normally, we

should limit our questions to the disagreeing provisions.

Senator Rasul: Yes, Mr. President. And I also would like to raise another question.

We respect the views of the minority but should not the view of the majority also be respected, Mr. President?

The Presiding Officer [Senator Aquino]: Yes, we also mentioned that earlier.

Senator Herrera is recognized.

Senator Herrera: I think, Mr. President, we can settle this problem if the questions would be limited to the new provisions in the Conference Committee Report which are not found in the Senate version when we approved the Senate version. Let us proceed now with the interpellations.

The Presiding Officer [Senator Aquino]: Okay. Senator Maceda?

Senator Maceda: That brings us back to my original question. If we proceed now, plus the voting, up to what time are we supposed to end. So, if we are going to go through up to 12:00 midnight, fine. I have no objection. I will be the last one to object to working overtime. But then, I will probably ask that we recess for 15 minutes this time not for us but to give all of these people in front of us, at the back of us, at the side of us, at the left of us, to at least go to the toilet or at least to get something to eat.

SUSPENSION OF THE SESSION

Senator Romulo: May I ask for a one-minute suspension of the session, Mr. President.

The Presiding Officer [Senator Aquino]: The session is suspended for one minute, if there is no objection. [*There was none.*]

It was 9:25 p.m.

RESUMPTION OF THE SESSION

At 9:28 p.m., the session was resumed.

The Presiding Officer [Senator Aquino]: The session is resumed.

Senator Coseteng: Mr. President, there are still many questions to be asked, not just from this Representation but also from our people. But in view of the lateness of the hour, and the

fact that the motion of Senator Tañada has been voted down and the request for deferment of voting on the Bicameral Conference Committee Report is not being looked upon with favor by majority of our Colleagues, I end my interpellation.

I would like to express the pain that the request of the Minority Leader, in spite of the fact that we would be losing in the voting since we do not have the majority number, is not being granted.

I think Senator Tolentino earlier had already expressed his sentiments and it is quite regrettable that it had to turn out this way.

So, I end my interpellations and allow the Majority Leader and the majority in the Senate to continue with whatever their plans are, with a regret, as I mentioned earlier, that a deferment of not even 24 hours could not be granted as requested by our Minority Leader.

Senator Romulo: Mr. President, we thank the distinguished Senator from Quezon City, Negros Occidental, and Panay.

Mr. President, I reiterate my motion that we vote to approve the Bicameral Conference Committee Report.

APPROVAL OF CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 1630/HOUSE BILL NO. 11197

The Presiding Officer [Senator Aquino]: All those in favor of the Bicameral Conference Committee Report say *Aye*. [*Several Senators: Aye.*] All those against say *Nay*. [*Few Senators: Nay.*]

I think it is the same record.

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

CONFERENCE COMMITTEE REPORT

The Conference Committee on the disagreeing provisions of House Bill No. 11197, entitled

AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM TO WIDEN ITS TAX BASE AND ENHANCE ITS ADMINISTRATION, AMENDING FOR THESE PURPOSES SECTIONS 99, 100, 102, 103, 104, 105, 106, 107,

108 AND 110 OF TITLE IV, 112, 115 AND 116 OF TITLE V, AND 236, 237, AND 238 OF TITLE IX, AND REPEALING SECTIONS 113 AND 114 OF TITLE V, ALL OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED

and Senate Bill No. 1630 entitled

AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM TO WIDEN ITS TAX BASE AND ENHANCE ITS ADMINISTRATION, AMENDING FOR THESE PURPOSES SECTIONS 99, 100, 102, 103, 104, 106, 107, 108, AND 110 OF TITLE IV, 112, 115, 117, AND 121 OF TITLE V, AND 236, 237, AND 238 OF TITLE IX, AND REPEALING SECTIONS 113, 114, 116, 119 AND 120 OF TITLE V, ALL OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED AND FOR OTHER PURPOSES,

having met, after full and free conference, has agreed to recommend and do hereby recommend to their respective Houses that House Bill No. 11197, in consolidation with Senate Bill No. 1630, be approved in accordance with the attached copy of the bill as reconciled and approved by the conferees.

Approved,

CONFEREES ON THE PART OF THE
SENATE:

(Sgd.) ERNESTO F. HERRERA

(Sgd.) LETICIA RAMOS-SHAHANI

(Sgd.) ALBERTO G. ROMULO

JOHN H. OSMEÑA

(Sgd.) ERNESTO M. MACEDA
with reservation on
telephone & media
coverage

(Sgd.) BLAS F. OPLE

(Sgd.) FRANCISCO S. TATAD

(Sgd.) RODOLFO G. BIAZON
with reservation on
increasing exemptions
of housing projects

(Sgd.) WIGBERTO E. TAÑADA
with reservations

CONFEREES ON THE PART OF THE
HOUSE OF REPRESENTATIVES:

(Sgd.) EXEQUIEL B. JAVIER

(Sgd.) JAMES L. CHIONGBIAN

(Sgd.) RENATO V. DIAZ

(Sgd.) ARNULFO P. FUENTEBELLA

(Sgd.) MARIANO M. TAJON

GREGORIO A. ANDOLANA

(Sgd.) THELMA Z. ALMARIO

(Sgd.) CATALINO V. FIGUEROA

AN ACT RESTRUCTURING THE VALUE-ADDED TAX (VAT) SYSTEM, WIDENING ITS TAX BASE AND ENHANCING ITS ADMINISTRATION, AND FOR THESE PURPOSES AMENDING AND REPEALING THE RELEVANT PROVISIONS OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED AND FOR OTHER PURPOSES

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

SECTION 1. Section 99 of of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 99. Persons Liable. - Any person who, in the course of trade or business, sells, barter, exchanges, LEASES goods OR PROPERTIES, renders services, [or engages in similar transactions,] and any person who imports goods shall be [subject] LIABLE to the value-added tax (VAT) imposed in Sections 100 to 102 of this Code.

THE VALUE-ADDED TAX IS AN INDIRECT TAX AND THE AMOUNT OF TAX MAY BE SHIFTED OR PASSED ON TO THE BUYER, TRANSFEREE OR LESSEE OF THE GOODS, PROPERTIES OR SERVICES. THIS RULE SHALL LIKEWISE APPLY TO EXISTING CONTRACTS OF SALE OR LEASE

OF GOODS, PROPERTIES OR SERVICES AT THE TIME OF THE EFFECTIVITY OF THIS ACT.

THE PHRASE “IN THE COURSE OF TRADE OR BUSINESS” MEANS THE REGULAR CONDUCT OR PURSUIT OF A COMMERCIAL OR AN ECONOMIC ACTIVITY, INCLUDING TRANSACTIONS INCIDENTAL THERETO, BY ANY PERSON REGARDLESS OF WHETHER OR NOT THE PERSON ENGAGED THEREIN IS A NON-STOCK, NON-PROFIT PRIVATE ORGANIZATION, (IRRESPECTIVE OF THE DISPOSITION OF ITS NET INCOME AND WHETHER OR NOT IT SELLS EXCLUSIVELY TO MEMBERS OF THEIR GUESTS), OR GOVERNMENT ENTITY.”

“THE RULE OF REGULARITY, TO THE CONTRARY, NOTWITHSTANDING, SERVICES, AS DEFINED IN THIS CODE RENDERED IN THE PHILIPPINES BY NONRESIDENT FOREIGN PERSONS SHALL BE CONSIDERED AS BEING RENDERED IN THE COURSE OF TRADE OR BUSINESS.”

SEC. 2. Section 100 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 100. Value-added tax on sale of goods OR PROPERTIES. - (a) Rate and base of tax. - There shall be levied, assessed and collected on every sale, barter or exchange of goods OR PROPERTIES, a value-added tax equivalent to 10% of the gross selling price or gross value in money of the goods OR PROPERTIES sold, bartered or exchanged, such tax to be paid by the seller or transferor. [: Provided, That the following sales by VAT-registered persons shall be subject to 0%:]

(1) THE TERM “GOODS OR PROPERTIES” SHALL MEAN ALL TANGIBLE AND INTANGIBLE OBJECTS WHICH ARE CAPABLE OF PECUNIARY ESTIMATION AND SHALL INCLUDE:

(A) REAL PROPERTIES HELD PRIMARILY FOR SALE TO CUSTOMERS OR HELD FOR LEASE IN THE ORDINARY COURSE OF TRADE OR BUSINESS;

(B) THE RIGHT OR THE PRIVILEGE TO USE PATENT, COPYRIGHT, DESIGN OR MODEL, PLAN, SECRET FORMULA OR PROCESS, GOODWILL, TRADEMARK, TRADE BRAND OR OTHER

LIKE PROPERTY OR RIGHT;

(C) THE RIGHT OR THE PRIVILEGE TO USE IN THE PHILIPPINES OF ANY INDUSTRIAL, COMMERCIAL OR SCIENTIFIC EQUIPMENT;

(D) THE RIGHT OR THE PRIVILEGE TO USE MOTION PICTURE FILMS, FILMS, TAPES AND DISCS; AND

(E) RADIO, TELEVISION, SATELLITE TRANSMISSION AND CABLE TELEVISION TIME.

THE TERM "GROSS SELLING PRICE" MEANS THE TOTAL AMOUNT OF MONEY OR ITS EQUIVALENT WHICH THE PURCHASER PAYS OR IS OBLIGATED TO PAY TO THE SELLER IN CONSIDERATION OF THE SALE, BARTER OR EXCHANGE OF THE GOODS OR PROPERTIES, EXCLUDING THE VALUE-ADDED TAX. THE EXCISE TAX, IF ANY, ON SUCH GOODS OR PROPERTIES SHALL FORM PART OF THE GROSS SELLING PRICE.

(2) THE FOLLOWING SALES BY VAT-REGISTERED PERSONS SHALL BE SUBJECT TO 0%:

[(1)] (A) Export sales [; and]. - THE TERM "EXPORT SALES" MEANS:

i) THE SALE AND ACTUAL SHIPMENT OF GOODS FROM THE PHILIPPINES TO A FOREIGN COUNTRY, IRRESPECTIVE OF ANY SHIPPING ARRANGEMENT THAT MAY BE AGREED UPON WHICH MAY INFLUENCE OR DETERMINE THE TRANSFER OF OWNERSHIP OF THE GOODS SO EXPORTED AND PAID FOR IN ACCEPTABLE FOREIGN CURRENCY OR ITS EQUIVALENT IN GOODS OR SERVICES, AND ACCOUNTED FOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BANGKO SENTRAL NG PILIPINAS (BSP);

ii) SALE OF RAW MATERIALS OR PACKAGING MATERIALS TO A NONRESIDENT BUYER FOR DELIVERY TO A RESIDENT LOCAL EXPORT-ORIENTED ENTERPRISE TO BE USED IN MANUFACTURING, PROCESSING, PACKING OR REPACKING IN THE PHILIPPINES OF THE SAID BUYER'S GOODS AND PAID FOR IN ACCEPTABLE FOREIGN CURRENCY AND ACCOUNTED FOR IN ACCORDANCE WITH THE RULES AND

REGULATIONS OF THE BANGKO SENTRAL NG PILIPINAS (BSP);

iii) SALE OF RAW MATERIALS OR PACKAGING MATERIALS TO EXPORT-ORIENTED ENTERPRISE WHOSE EXPORT SALES EXCEED SEVENTY PERCENT (70%) OF TOTAL ANNUAL PRODUCTION;

iv) SALE OF GOLD TO BANGKO SENTRAL NG PILIPINAS (BSP); AND

v) THOSE CONSIDERED EXPORT SALES UNDER EXECUTIVE ORDER NO. 226, OTHERWISE KNOWN AS THE OMNIBUS INVESTMENT CODE OF 1987, AND OTHER SPECIAL LAWS.

"[(2) Sales to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects such sales to zero rate.]

"(B) FOREIGN CURRENCY DENOMINATED SALE. - THE PHRASE "FOREIGN CURRENCY DENOMINATED SALE" MEANS SALE TO A NON-RESIDENT OF GOODS, EXCEPT THOSE MENTIONED IN SECTIONS 149 AND 150, ASSEMBLED OR MANUFACTURED IN THE PHILIPPINES FOR DELIVERY TO A RESIDENT IN THE PHILIPPINES, PAID FOR IN ACCEPTABLE FOREIGN CURRENCY AND ACCOUNTED FOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BANGKO SENTRAL NG PILIPINAS (BSP)."

"(C) SALES TO PERSONS OR ENTITIES WHOSE EXEMPTION UNDER SPECIAL LAWS OR INTERNATIONAL AGREEMENTS TO WHICH THE PHILIPPINES IS A SIGNATORY EFFECTIVELY SUBJECTS SUCH SALES TO ZERO-RATE.

["Export sales" means the sale and shipment or exportation of goods from the Philippines to a foreign country, irrespective of any shipping arrangement that may be agreed upon which may influence or determine the transfer of ownership of the goods so exported, or foreign currency denominated sales. "Foreign currency denominated sales" means sales to non-residents of goods assembled or manufactured in the Philippines, for delivery to residents in the Philippines and paid for in convertible foreign currency remitted through the banking system in the Philippines.]

“(b) Transactions deemed sale. - The following transactions shall be deemed sale:

“(1) Transfer, use, or consumption not in the course of business of goods OR PROPERTIES originally intended for sale or for use in the course of business.”

“(2) Distribution or transfer to:

“(A) Shareholders or investors as share in the profits of the VAT-registered persons; or

“(B) Creditors in payment of debt.

“(3) Consignment of goods if actual sale is not made within 60 days following the date such goods were consigned.

“(4) Retirement from or cessation of business, with respect to inventories of taxable goods existing as of such retirement or cessation.

“(c) Changes in cessation of status of a VAT-registered person. - The tax imposed in paragraph (a) of this section shall also apply to goods disposed of or existing as of a certain date if under circumstances to be prescribed in regulations to be promulgated by the Secretary of Finance, the status of a person as a VAT-registered person changes or is terminated.

“(d) Determination of the tax. - (1) [Tax billed as a separate item in the invoice - if the tax is billed as a separate item in the invoice, the tax shall be based on the gross selling price, excluding the tax. “Gross selling price” means the total amount of money or its equivalent which the purchaser pays or is obligated to pay to the seller in consideration of the sale, barter or exchange of the goods, excluding the value-added tax. The excise tax, if any, on such goods shall form part of the gross selling price.] THE TAX SHALL BE COMPUTED BY MULTIPLYING THE TOTAL AMOUNT INDICATED IN THE INVOICE BY 1/11.

“[(2) Tax not billed separately or is billed erroneously in the invoice. - In case the tax is not billed separately or is billed erroneously in the invoice, the tax shall be determined by multiplying the gross selling price, including the amount intended by the seller to cover the tax or the tax billed erroneously, by the factor 1/11 or such factor as may be prescribed by regulations in case of persons partially exempt under special laws.]

“[(3)] (2) Sales returns, allowances and sales discounts. - The value of goods OR PROPERTIES sold and subsequently returned or for which allowances were granted by a VAT-registered person may be deducted from the gross sales or receipts for the quarter in which a refund is made or a credit memorandum or refund is issued. Sales discount granted and indicated in the invoice at the time of sale AND THE GRANT OF WHICH DOES NOT DEPEND UPON THE HAPPENING OF A FUTURE EVENT may be executed from the gross sales within the same quarter IT WAS GIVEN.

“[(4)] (3) Authority of the Commissioner to determine the appropriate tax base. - The Commissioner shall, by regulations, determine the appropriate tax base in cases where a transaction is deemed a sale, barter or exchange of goods OR PROPERTIES under paragraph (b) hereof, or where the gross selling price is unreasonably lower than the actual market value.”

SEC. 3. Section 102 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 102. Value-added tax on sale of services AND USE OR LEASE OF PROPERTIES. - (a) Rate and base of tax. - There shall be levied, assessed and collected, a value-added tax equivalent to 10% of gross receipts derived [by any person engaged in the sale of services.] FROM THE SALE OR EXCHANGE OF SERVICES, INCLUDING THE USE OR LEASE OF PROPERTIES.

The phrase “sale OR EXCHANGE of services” means the performance of all kinds of services IN THE PHILIPPINES for others for a fee, remuneration or consideration, including those performed or rendered by construction and service contractors; stock, real state, commercial, customs and immigration brokers; lessors of [personal] property, WHETHER PERSONAL OR REAL; WAREHOUSING SERVICES; lessors or distributors of cinematographic films; persons engaged in milling, processing, manufacturing or repackaging goods for others; PROPRIETORS, OPERATORS OR KEEPERS OF HOTELS, MOTELS, RESTHOUSES, PENSION HOUSES, INNS, RESORTS; PROPRIETORS OR OPERATORS OF RESTAURANTS, REFRESHMENT PARLORS, CAFES AND OTHER EATING PLACES, INCLUDING CLUBS AND CATERERS; DEALERS IN SECURITIES; LENDING INVESTORS; OPERATORS OF

TAXICABS, UTILITY CARS FOR RENT OR HIRE DRIVEN BY THE LESSEES (RENT-A-CAR COMPANIES), TOURIST BUSES; AND OTHER COMMON CARRIERS BY LAND, AIR, AND SEA RELATIVE, TO THEIR TRANSPORT OF GOODS OR CARGOES; SERVICES OF FRANCHISE GRANTEES OF TELEPHONE AND TELEGRAPH, RADIO AND TELEVISION BROADCASTING AND ALL OTHER FRANCHISE GRANTEES EXCEPT THOSE UNDER SECTION 117 OF THIS CODE; SERVICES OF BANKS, NON-BANK FINANCIAL INTERMEDIARIES AND FINANCE COMPANIES; AND NON-LIFE INSURANCE COMPANIES (EXCEPT THEIR CROP INSURANCES) INCLUDING SURETY, FIDELITY, INDEMNITY AND BONDING COMPANIES; AND similar services regardless of whether or not the performance thereof calls for the exercise or use of the physical or mental faculties[:]. [Provided, That the following services performed in the Philippines by VAT-registered persons shall be subject to 0%:] THE PHRASE "SALE OF EXCHANGE OF SERVICES" SHALL LIKEWISE INCLUDE:

(1) THE LEASE OR THE USE OF OR THE RIGHT OR PRIVILEGE TO USE ANY COPYRIGHT, PATENT, DESIGN OR MODEL, PLAN, SECRET FORMULA OR PROCESS, GOODWILL, TRADE-MARK, TRADE BRAND OR OTHER LIKE PROPERTY OR RIGHT;

(2) THE LEASE OR THE USE OF, OR THE RIGHT TO USE OF ANY INDUSTRIAL, COMMERCIAL OR SCIENTIFIC EQUIPMENT;

(3) THE SUPPLY OF SCIENTIFIC, TECHNICAL, INDUSTRIAL OR COMMERCIAL KNOWLEDGE OR INFORMATION;

(4) THE SUPPLY OF ANY ASSISTANCE THAT IS ANCILLARY AND SUBSIDIARY TO AND IS FURNISHED AS A MEANS OF ENABLING THE APPLICATION OR ENJOYMENT OF ANY SUCH PROPERTY, OR RIGHT AS IS MENTIONED IN SUBPARAGRAPH (2) OR ANY SUCH KNOWLEDGE OR INFORMATION AS IS MENTIONED IN SUBPARAGRAPH (3); OR

(5) THE SUPPLY OF SERVICES BY A NON-RESIDENT PERSON OR HIS EMPLOYEE IN CONNECTION WITH THE USE OR PROPERTY OR RIGHTS BELONGING TO, OR THE INSTALLATION OR PREPARATION OF ANY BRAND, MA-

CHINERY OR OTHER APPARATUS PURCHASED FROM SUCH NONRESIDENT PERSON;

(6) THE SUPPLY OF TECHNICAL ADVICE, ASSISTANCE OR SERVICES RENDERED IN CONNECTION WITH TECHNICAL MANAGEMENT OR ADMINISTRATION OF ANY SCIENTIFIC, INDUSTRIAL OR COMMERCIAL UNDERTAKING, VENTURE, PROJECT OR SCHEME;

(7) THE LEASE OF MOTION PICTURE FILMS, FILMS, TAPES AND DISCS; and

(8) THE LEASE OF THE USE OF OR THE RIGHT TO USE RADIO, TELEVISION, SATELLITE TRANSMISSION AND CABLE TELEVISION TIME.

LEASE OF PROPERTIES SHALL BE SUBJECT TO THE TAX HEREIN IMPOSED IRRESPECTIVE OF THE PLACE WHERE THE CONTRACT OF LEASE OR LICENSING AGREEMENT WAS EXECUTED IF THE PROPERTY IS LEASED OR USED IN THE PHILIPPINES.

THE TERM "GROSS RECEIPTS" MEANS THE TOTAL AMOUNT OF MONEY OR ITS EQUIVALENT REPRESENTING THE CONTRACT PRICE, COMPENSATION, SERVICE FEE, RENTAL OR ROYALTY, INCLUDING THE AMOUNT CHARGED FOR MATERIALS SUPPLIED WITH THE SERVICES AND DEPOSITS AND ADVANCED PAYMENTS ACTUALLY OR CONSTRUCTIVELY RECEIVED DURING THE TAXABLE QUARTER FOR THE SERVICES PERFORMED OR TO BE PERFORMED FOR ANOTHER PERSON, EXCLUDING VALUE-ADDED TAX.

"(B) TRANSACTIONS SUBJECT TO ZERO-RATE. - THE FOLLOWING SERVICES PERFORMED IN THE PHILIPPINES BY VAT-REGISTERED PERSONS SHALL BE SUBJECT TO 0%:

"(1) Processing, manufacturing or repacking goods for other persons doing business outside the Philippines which goods are subsequently exported, where the services are paid for in acceptable foreign currency [, inwardly remitted to the Philippines] and accounted for in accordance with the rules and regulations of the [Central Bank of the Philippines] BANGKO SENTRAL NG PILIPINAS (BSP).

“(2) Services other than those mentioned in the preceding sub-paragraph, the consideration for which is paid for in acceptable foreign currency [which is remitted inwardly to the Philippines] and accounted for in accordance with the rules and regulations of the [Central Bank of the Philippines] BANGKO SENTRAL NG PILIPINAS (BSP).

“(3) Services rendered to persons or entities whose exemption under special laws or international agreements to which the Philippines is a signatory effectively subjects the supply of such services to zero rate.

“(4) SERVICES RENDERED TO VESSELS ENGAGED EXCLUSIVELY IN INTERNATIONAL SHIPPING; AND

“(5) SERVICES PERFORMED BY SUBCONTRACTORS AND/OR CONTRACTORS IN PROCESSING, CONVERTING, OR MANUFACTURING GOODS FOR AN ENTERPRISE WHOSE EXPORT SALES EXCEED SEVENTY PERCENT (70%) OF TOTAL ANNUAL PRODUCTION.”

[“Gross receipts” means the total amount of money, or its equivalent representing the contract price, compensation or service fee, including the amount charged for materials supplied with the services and deposits or advance payments actually or constructively received during the taxable quarter for the services performed or to be performed for another person, excluding value-added tax.]

“[(b)](C) Determination of the tax. - [(1) Tax billed as a separate item in the invoice. - If the tax is billed as a separate item in the invoice, the tax shall be based on the gross receipts, excluding the tax.]

“[(2) Tax not billed separately or is billed erroneously in the invoice. - If the tax is not billed separately or is billed erroneously in the invoice, the tax shall be determined by multiplying the gross receipts (including the amount intended to cover the tax or the tax billed erroneously) by 1/11.] THE TAX SHALL BE COMPUTED BY MULTIPLYING THE TOTAL AMOUNT INDICATED IN THE OFFICIAL RECEIPT BY 1/11.”

SEC. 4. Section 103 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 103. Exempt transactions. - The following

shall be exempt from the value-added tax:

“(a) Sale of nonfood agricultural PRODUCTS; marine and forest products in their original state by the primary producer or the owner of the land where the same are produced;

“(B) SALE OF COTTON AND COTTON SEEDS IN THEIR ORIGINAL STATE; AND COPRA;

“[(b)] (C) Sale or importation [in their original state] of agricultural and marine food products IN THEIR ORIGINAL STATE, EXCEPT IMPORTATION OF MEAT; livestock and poultry of a kind generally used as, or yielding or producing foods for human consumption; and breeding stock and genetic materials therefor.

“Products classified under this paragraph and paragraph (a) shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market, such as freezing, drying, salting, smoking or stripping. Polished and/or husked rice, corn grits, [and] LOCALLY PRODUCED raw cane sugar AND ORDINARY SALT shall be considered in their original state.

“[(c)](D) Sale or importation of fertilizers; [pesticides and herbicides; chemicals for the formulation of pesticides;] seeds, seedlings and fingerlings; fish, PRAWN, [animal] LIVESTOCK and poultry feeds[;], [and soya beans and fish meals] INCLUDING INGREDIENTS, WHETHER LOCALLY PRODUCED OR IMPORTED, USED IN THE MANUFACTURE OF FINISHED FEEDS (EXCEPT SPECIALTY FEEDS FOR RACE HORSES, FIGHTING COCKS, AQUARIUM FISH, ZOO ANIMALS AND OTHER ANIMALS GENERALLY CONSIDERED AS PETS).

“[(d)] (E) Sale or importation of petroleum products (except lubricating oil, processed gas, grease, wax, and petrolatum) subject to excise tax imposed under Title VI;

“[(e)](F) Sale or importation of raw materials to be used by the buyer or importer himself in the manufacture of petroleum products [except lubricating oil and grease] subject to excise tax[;], EXCEPT LUBRICATING OIL, PROCESSED GAS, GREASE, WAX AND PETROLATUM;

“[(f) Printing, publication, importation or sale of

books and any newspaper, magazine, review, or bulletin which appears at regular intervals with fixed prices for subscription and sale and which is not devoted principally to the publication of advertisements;]

“(g) Importation of passenger and/or cargo vessel of more than [ten] FIVE thousand tons, whether coastwise or ocean-going, including engine and spare parts of said vessel to be used by the importer himself as operator thereof;

“(h) Importation of personal and household effects belonging to the residents of the Philippines returning from abroad and nonresident citizens coming to resettle in the Philippines: *Provided*, That such goods are exempt from customs duties under the Tariff and Customs Code of the Philippines;

“(i) Importation of professional instruments and implements, wearing apparel, domestic animals, and personal household effects (except any vehicle, vessel, aircraft, machinery, other goods for use in the manufacture and merchandise of any kind in commercial quantity) belonging to persons coming to settle in the Philippines, for their own use and not for sale, barter or exchange, accompanying such persons, or arriving within ninety (90) days before or after their arrival, upon the production of evidence satisfactory to the Commissioner of Internal Revenue, that such persons are actually coming to settle in the Philippines and that the change of residence is bona fide;

“(j) Services [rendered by persons] subject to percentage tax under Title V;

“(k) Services by agricultural contract growers and milling for others of palay into rice, corn into grits and sugar cane into raw sugar;

“(l) Medical, dental, hospital and veterinary services EXCEPT THOSE RENDERED BY PROFESSIONALS;

“(m) Educational services rendered by private educational institutions, duly accredited by the Department of Education, Culture and Sports, and those rendered by government educational institutions;

“(n) Sale by the artist himself of his works of art, literary works, musical compositions and similar creations, or his services performed for the production of such works;

[“(o) Services performed as actors and actresses, talents, singers and emcees; radio and television broadcasters, choreographers; musical, radio, movie television and stage directors;]

“[(p) Services performed as professional athletes;]

“[(q) Leasing of real property;]

“[(r) Services performed in the exercise of profession or calling (except [customs] ALL brokers) subject to the [occupation] PROFESSIONAL tax under the Local [Tax] GOVERNMENT Code, and professional services performed by registered general professional partnerships;]

“(s) (O) Services rendered by individuals pursuant to an employer-employee relationship;

“[(t)](P) Services rendered by regional or area headquarters established in the Philippines by multinational corporations which act as supervisory, communications and coordinating centers for their affiliates, subsidiaries or branches in the Asia-Pacific Region and do not earn or derive income from the Philippines;

“[(u)](Q) Transactions which are exempt under special laws, EXCEPT THOSE GRANTED UNDER PRESIDENTIAL DECREE NOS. 66, 529, 972, 1491 AND 1590, AND NON-ELECTRIC COOPERATIVES UNDER REPUBLIC ACT NO. 6938, or international agreements to which the Philippines is a signatory;

“[(v)](R) Export sales by persons who are not VAT - registered; [and]

[(w) Sales and or services performed by persons other than those mentioned in the preceding paragraphs whose annual gross sales and/or receipts do not exceed the amount prescribed in regulations to be promulgated by the Secretary of Finance which shall not be less than P100,000 higher than P500,000.]

“(S) SALE OF REAL PROPERTIES NOT PRIMARILY HELD FOR SALE TO CUSTOMERS OR HELD FOR LEASE IN THE ORDINARY COURSE OF TRADE OR BUSINESS OR REAL PROPERTY UTILIZED FOR LOW-COST AND SOCIALIZED HOUSING AS DEFINED BY REPUBLIC ACT NUMBER 7279 OTHERWISE KNOWN AS THE URBAN DEVELOPMENT AND HOUSING ACT OF 1992 AND OTHER RELATED LAWS;

“(T) SALE OR LEASE OF GOODS OR PROPERTIES OR THE PERFORMANCE OF SERVICES OTHER THAN THE TRANSACTIONS MENTIONED IN THE PRECEDING PARAGRAPHS, THE GROSS ANNUAL SALES AND/OR RECEIPTS DO NOT EXCEED THE AMOUNT PRESCRIBED IN REGULATIONS TO BE PROMULGATED BY THE PRESIDENT UPON THE RECOMMENDATION BY THE SECRETARY OF FINANCE WHICH SHALL NOT BE LESS THAN FOUR HUNDRED EIGHTY THOUSAND PESOS (P480,000.00) OR MORE THAN SEVEN HUNDRED TWENTY THOUSAND PESOS (P720,000.00) SUBJECT TO TAX UNDER SECTION 112 OF THIS CODE.

THE FOREGOING EXEMPTIONS TO THE CONTRARY NOTWITHSTANDING, ANY PERSON WHOSE SALE OF GOODS OR PROPERTIES OR SERVICES WHICH ARE OTHERWISE NOT SUBJECT TO VAT, BUT WHO ISSUES A VAT INVOICE OR RECEIPT THEREFOR SHALL, IN ADDITION TO HIS LIABILITY TO OTHER APPLICABLE PERCENTAGE TAX, IF ANY, BE LIABLE TO THE TAX IMPOSED IN SECTION 100 OR 102 WITHOUT THE BENEFIT OF INPUT TAX CREDIT, AND SUCH TAX SHALL NOT ALSO BE RECOGNIZED AS INPUT TAX CREDIT TO THE PURCHASER UNDER SECTION 104, ALL OF THIS CODE.”

SEC. 5. Section 104 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 104. Tax Credits. - (a) Creditable input tax. - Any input tax [on the] EVIDENCED BY A VAT INVOICE OR OFFICIAL RECEIPT ISSUED IN ACCORDANCE WITH SECTION 108 HEREOF ON THE FOLLOWING TRANSACTIONS SHALL BE CREDITABLE AGAINST THE OUTPUT TAX:

“(1) Purchase or importation of goods:

“(A) For sale [or for conversion into or intended to form part of a finished product for sale or for use in the course of business]; or

“(B) FOR CONVERSION INTO OR INTENDED TO FORM PART OF A FINISHED PRODUCT FOR SALE INCLUDING PACKAGING MATERIALS; OR

“[(B)](C) For use as supplies in the course of business; or

“[(C)](D) For use as materials supplied in the sale of service; or

“[(D)](E) For use in trade or business for which deduction for depreciation OR AMORTIZATION is allowed under [Section 29(f) of] this Code [; and], EXCEPT AUTOMOBILES, AIRCRAFT AND YACHTS.

“(2) [services performed by a VAT-registered person shall be credited against the output tax payable by the VAT-registered person: *Provided*, That in the case of domestic purchase of goods or services, the invoice or receipt was issued therefor by a VAT-registered person in a manner prescribed in Section 108.] PURCHASE OF SERVICES ON WHICH A VALUE-ADDED TAX HAS BEEN ACTUALLY PAID.

THE INPUT TAX ON DOMESTIC PURCHASE OF GOODS OR PROPERTIES SHALL BE CREDITABLE:

(AA) TO THE PURCHASER UPON CONSUMPTION OF SALE AND ON IMPORTATION OF GOODS OR PROPERTIES;

(BB) TO THE IMPORTER UPON PAYMENT OF THE VALUE-ADDED TAX PRIOR TO THE RELEASE OF THE GOODS FROM THE CUSTODY OF THE BUREAU OF CUSTOMS.

HOWEVER, IN THE CASE OF PURCHASE OF SERVICES, LEASE OR USE OF PROPERTIES THE INPUT TAX SHALL BE CREDITABLE TO THE PURCHASER, LESSEE OR LICENSEE UPON PAYMENT OF THE COMPENSATION, RENTAL, ROYALTY OR FEE.

“A VAT-registered person who is also engaged in transactions not subject to the value-added tax shall be allowed INPUT tax credit as follows:

“(A) Total input tax which can be directly attributed to transactions subject to value-added tax; and

“(B) A [rateable] RATABLE portion of any input tax which cannot be directly attributed to either activity.

“THE TERM “input tax” means the value-added tax DUE FROM OR paid by a VAT-registered person in the course of his trade or business on importation of

goods or local purchase of goods or services, INCLUDING LEASE OR USE OF PROPERTY, from a VAT-registered person. It shall also include the transitional input tax determined in accordance with Section 105 of this Code [and other transitional input taxes as prescribed by regulations].

"[In case tax-exempt products of a pioneer enterprise registered with the BOI as of August 1, 1986 are sold domestically to a value-added tax registered person, the value-added tax otherwise due on such products shall also be considered as input tax creditable against his output tax payable.]

"The term "output tax" means the value-added tax due on the sale OR LEASE of taxable goods or PROPERTIES OR services by any person registered or required to register under Section 107 of this Code.

"(b) Excess output or input tax. - If at the end of the any taxable quarter the output tax exceeds the input tax, the excess shall be paid by the VAT-registered person. If the input tax exceeds the output tax, the excess shall be carried over the succeeding quarters. Any input tax attributable to the purchase of capital goods or to zero-rated sales by a VAT-registered person may at his option be refunded or credited against other internal revenue taxes, subject to the provisions of Section 106.

"(C) DETERMINATION OF CREDITABLE INPUT TAX. - THE SUM OF THE EXCESS INPUT TAX CARRIED OVER FROM THE PRECEDING MONTH OR QUARTER AND THE INPUT TAX CREDITABLE TO A VAT-REGISTERED PERSON DURING THE TAXABLE MONTH OR QUARTER SHALL BE REDUCED BY THE AMOUNT OF CLAIM FOR REFUND OR TAX CREDIT FOR VALUE-ADDED TAX AND OTHER ADJUSTMENTS, SUCH AS PURCHASER RETURNS OR ALLOWANCES AND INPUT TAX ATTRIBUTABLE TO EXEMPT SALE.

"THE CLAIM FOR TAX CREDIT REFERRED TO IN THE FOREGOING PARAGRAPH SHALL INCLUDE NOT ONLY THOSE FILED WITH THE BUREAU OF INTERNAL REVENUE (BIR) BUT ALSO THOSE FILED WITH THE OTHER GOVERNMENT AGENCIES, SUCH AS THE BOARD OF INVESTMENTS (BOI) AND THE BUREAU OF CUSTOMS (BOC).

SEC. 6. Section 106 of the National Internal

Revenue Code, as amended, is hereby further amended to read as follows:

"Section 106. [Refunds or tax credits of input tax. - (a) Export sales. - An exporter who is a VAT-registered person may within two years from the date of exportation, apply for the issuance of a tax credit certificate or refund of the input tax attributable to the goods exported, to the extent that such input tax has not been applied to output tax and upon presentation of proof that the foreign exchange proceeds have been accounted for in accordance with the regulations of the Central Bank of the Philippines.]

"[(b) Zero-rated or effectively zero-rated sales. - Any person, except those covered by paragraph (a) above, whose sales are zero-rated or are effectively zero-rated may, within two years after the close of the quarter when such sales were made, apply for the issuance of a tax credit certificate or refund of the input taxes attributable to such sales to the extent that such input tax has not been applied against output tax.]

REFUNDS OR TAX CREDITS OF CREDITABLE INPUT TAX. - (A) ANY VAT-REGISTERED PERSON, WHOSE SALES ARE ZERO-RATED OR EFFECTIVELY ZERO-RATED, MAY WITHIN TWO (2) YEARS AFTER THE CLOSE OF THE TAXABLE QUARTER WHEN THE SALES WERE MADE, APPLY FOR THE ISSUANCE OF A TAX CREDIT CERTIFICATE OR REFUND OF CREDITABLE INPUT TAX DUE OR PAID ATTRIBUTABLE TO SUCH SALES, EXCEPT TRANSITIONAL INPUT TAX, TO THE EXTENT THAT SUCH INPUT TAX HAS NOT BEEN APPLIED AGAINST OUTPUT TAX: PROVIDED, HOWEVER, THAT IN THE CASE OF ZERO-RATED SALES UNDER SECTION 100 (A) (2) (A) (i), (ii) AND (B) AND SECTION 102 (B) (1) AND (2), THE ACCEPTABLE FOREIGN CURRENCY EXCHANGE PROCEEDS THEREOF HAD BEEN DULY ACCOUNTED FOR IN ACCORDANCE WITH THE REGULATIONS OF THE BANGKO SENTRAL NG PILIPINAS (BS): PROVIDED, FURTHER, THAT WHERE THE TAXPAYER IS ENGAGED IN ZERO-RATED OR EFFECTIVELY ZERO-RATED SALE AND ALSO IN TAXABLE OR EXEMPT SALE OF GOODS OR PROPERTIES OR SERVICES, AND THE AMOUNT CREDITABLE INPUT TAX DUE OR PAID CANNOT BE DIRECTLY AND ENTIRELY ATTRIBUTED TO ANY ONE OF THE TRANSACTIONS, IT SHALL BE ALLO-

CATED PROPORTIONATELY ON THE BASIS OF THE VOLUME OF SALES.

"[(c)] (B) Capital goods. - A VAT-registered person may apply for the issuance of a tax credit certificate or refund of input taxes paid on capital goods imported or locally purchased, to the extent that such input taxes have not been applied against output taxes. The application [for refund] may be made only WITHIN TWO (2) YEARS after the [expiration of 2 succeeding quarters following the quarter in which the] CLOSE OF THE TAXABLE QUARTER WHEN THE importation or [local] purchase was made. [: *Provided*, That a VAT-registered person who is just commencing business may apply for refund of input taxes under this paragraph not earlier than 180 days from the date of registration or actual start of business operations, whichever comes later: *Provided, however*, That the application is filed not later than 2 years from the dates herein prescribed.]

"[(d)](C) Cancellation of VAT-registration. - A person whose registration has been cancelled due to retirement from or cessation of business, or due to changes in or cessation of status under Section 100 (c) of this Code may, within 2 years from the date of cancellation, apply for the issuance of a tax credit certificate for any unused input tax which may be used in payment of his other internal revenue taxes.

"[(e)](D) Period within which refund OR TAX CREDIT OF input taxes [may] SHALL be made [by the Commissioner]. - IN PROPER CASES, [T] the Commissioner shall GRANT A refund OR ISSUE THE TAX CREDIT FOR CREDITABLE input taxes within 60 days from the date [the application for refund was filed with him or his duly authorized representative. No refund of input taxes shall be allowed unless the VAT-registered person files an application for refund within the period prescribed in paragraphs (a), (b) and (c) as the case may be.] OF SUBMISSION OF COMPLETE DOCUMENTS IN SUPPORT OF THE APPLICATION FILED IN ACCORDANCE WITH SUBPARAGRAPHS (A) AND (B) HEREOF. IN CASE OF FULL OR PARTIAL DENIAL OF THE CLAIM FOR TAX REFUND OR TAX CREDIT, OR THE FAILURE ON THE PART OF THE COMMISSIONER TO ACT ON THE APPLICATION WITHIN THE PERIOD PRESCRIBED ABOVE, THE TAXPAYER AFFECTED MAY, WITHIN THIRTY (30) DAYS FROM THE RECEIPT OF THE DECISION DENYING THE CLAIM OR AFTER THE EXPIRATION OF THE

SIXTY-DAY PERIOD, APPEAL THE DECISION OR THE UNACTED CLAIM WITH THE COURT OF TAX APPEALS."

"[(f)](E) Manner of giving refund. - Refund shall be made upon warrants drawn by the Commissioner or by his duly authorized representative without the necessity of being countersigned by the Chairman, Commission on Audit, the provisions of the Revised Administrative Code to the contrary notwithstanding: *Provided*, That refunds under this paragraph shall be subject to post audit by the Commission on Audit."

SEC. 7. Section 107 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 107. Registration of value-added taxpayers. - (a) In General. - Any person subject to a value-added tax under Sections 100 and 102 of this Code shall register with the appropriate Revenue District Officer AND PAY AN ANNUAL REGISTRATION FEE IN THE AMOUNT OF ONE THOUSAND PESOS (P1,000.00) FOR EVERY SEPARATE OR DISTINCT ESTABLISHMENT OR PLACE OF BUSINESS AND EVERY YEAR THEREAFTER ON OR BEFORE THE LAST DAY OF JANUARY. ANY PERSON JUST COMMENCING A BUSINESS SUBJECT TO THE VALUE-ADDED TAX MUST PAY THE FEE BEFORE ENGAGING THEREIN.

A person who maintains a head or main office and branches in different places shall register with the Revenue District Office which has jurisdiction over the place wherein the main or head office is located. HOWEVER, THE FEE SHALL BE PAID TO THE REVENUE DISTRICT OFFICER, COLLECTION AGENT, AUTHORIZED TREASURER OF THE MUNICIPALITY WHERE EACH PLACE OF BUSINESS OR BRANCH IS SITUATED.

"(b) Persons commencing business. - Any person who expects to realize gross sales or receipts subject to value-added tax in excess of the amount prescribed [by the Secretary of Finance] UNDER SECTION 103 (U) OF THIS CODE for the next 12 month period from the commencement of the business shall, within thirty days before the start of the said business, register with the Revenue District Officer who has jurisdiction over his principal place of business AND SHALL PAY THE ANNUAL REGISTRATION FEE PRESCRIBED IN THE PRECEDING PARAGRAPH.

“(c) Persons becoming liable to the value-added tax. - Any person whose gross sales or receipt in any 12-month period exceeds the amount prescribed [by regulations] UNDER SECTION 103 (T) OF THIS CODE for exemption from the value-added tax shall register AND PAY THE ANNUAL REGISTRATION FEE PRESCRIBED IN PARAGRAPH (A) OF THIS SECTION within THIRTY (30) days after the end of the last month of that period, and shall be liable to the value-added tax commencing from the first day of the month following his registration.

“(d) Optional registration of exempt person. - Any person whose transactions are exempt from value-added tax under Section 103 [(a), (b), (c), (f), and (w)] (T) of this Code, OR ANY PERSON WHOSE TRANSACTIONS ARE EXEMPT FROM VALUE-ADDED TAX UNDER SECTION 103 (A), (B), (C), AND (D) OF THIS CODE WITH RESPECT TO HIS EXPORT SALES ONLY, may apply for registration as a VAT-registered person not later than 10 days before the beginning of the taxable quarter AND SHALL PAY THE ANNUAL REGISTRATION FEE PRESCRIBED IN SUB-PARAGRAPH (A) OF THIS SECTION.

“[A VAT-registered person who is, at the same time, engaged in activities exempted under Section 103 (a), (b), (c) and (f) of this Code may register any or all of this exempt activities within the same period provided for in this paragraph.]

“In any case, the Commissioner may, for administrative reason, deny any application for registration.

“For purposes of this Title, any person registered in accordance with the provisions of this section shall be referred to as VAT-registered person. Each VAT-registered person shall be assigned only one [registration] TAXPAYERS’S IDENTIFICATION number.

“(e) Cancellation of Registration. - The registration of any person who ceases to be liable to the value-added tax shall be cancelled by the Commissioner upon filing of an application for cancellation of registration. Any person who opted to be registered under paragraph (d) of this section may, under regulation of the Secretary of Finance, apply for cancellation of such registration.”

SEC. 8. Section 108 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 108. Invoicing and accounting requirements for VAT-registered persons. - (a) Invoicing requirements. - A VAT-registered person shall, for every sale, issue an invoice or receipt. In addition to the information required under Section 238, the following information shall be indicated in the invoice or receipt:

“[(1) The VAT registration number.]

“[(2) If the seller bills the tax as a separate item in the invoice:]

“[(A) the amount of gross selling price or gross receipts on which the value-added tax is based;]

“[(B) the amount of value-added tax is determined by multiplying the amount of gross selling price or gross receipts by the rate of tax; and]

“[(C) the sum of (i) the gross selling price or gross receipts and (ii) the value-added tax which the purchaser pays or is obligated to pay to the vendor;]

“[(3) If the seller elects not to bill the tax as a separate item in the invoice or receipt, the total amount is charged against the buyer.]

“(1) A STATEMENT THAT THE SELLER IS A VAT REGISTERED PERSON, FOLLOWED BY HIS TAXPAYER’S IDENTIFICATION NUMBER (TIN); AND

“(2) THE TOTAL AMOUNT WHICH THE PURCHASER PAYS OR IS OBLIGATED TO PAY TO THE SELLER WITH THE INDICATION THAT SUCH AMOUNT INCLUDES THE VALUE-ADDED TAX.”

“(b) Accounting requirements. - Notwithstanding the provision of Section 223, all persons subject to the value-added tax under Sections 100 and 102 shall, in addition to the regular accounting records required, maintain a subsidiary sales journal and subsidiary purchase journal on which the daily sales and purchases are recorded. The subsidiary journals shall contain such information as may be required by the Secretary of Finance.”

SEC. 9. Section 110(c) of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“(c) Withholding of Creditable Value-Added Tax.

- The government or any of its political subdivisions, instrumentalities or agencies, including government-owned or controlled corporations (GOCCs) shall, before making payment on account of its purchase of goods from sellers and services rendered by contractors which are subject to the value-added tax imposed in Sections 100 and 102 of this Code, deduct and withhold the value-added tax due at the rate of three percent (3%) of the gross payment for the purchase of goods and six percent (6%) on gross receipts for services rendered by contractors on every sale or installment payment which shall be creditable against the value-added tax liability of the seller or contractor: *PROVIDED, HOWEVER, THAT THE PAYMENT FOR LEASE OR USE OF PROPERTIES OR PROPERTY RIGHTS TO NON-RESIDENT OWNERS SHALL BE SUBJECT TO TEN PER CENT (10%) WITHHOLDING TAX AT THE TIME OF PAYMENT. FOR THIS PURPOSE, THE PAYOR OR PERSON IN CONTROL OF THE PAYMENT SHALL BE CONSIDERED AS THE WITHHOLDING AGENT.*"

SEC. 10. Section 112 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 112. Tax on persons exempt from value-added tax (VAT). - Any person whose sales or receipts are exempt under Section 103 [(w)] (T) of this Code from the payment of value-added tax and who is not a VAT-registered person shall pay a tax equivalent to [two] THREE percent [(2%)] (3%) UPON THE EFFECTIVITY OF THIS ACT AND FOUR PERCENT (4%) TWO (2) YEARS THEREAFTER, of his gross quarterly sales or receipts.

SEC. 11. Section 115 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 115. Percentage tax on carriers and keepers of garages. - Keepers of garages, [cars for rent or hire driven by the lessee, transportation contractors, persons who transport passenger or freight for hire,] and common carriers by land, air or water FOR THE TRANSPORT OF PASSENGERS, except owners of bancas, and owners of animal-drawn two wheeled vehicles, shall pay a tax equivalent to three (3%) *per centum* of their quarterly gross receipts.

THE GROSS RECEIPTS OF COMMON CARRIERS DERIVED FROM THEIR INCOMING AND

OUTGOING FREIGHT SHALL NOT BE SUBJECT-ED TO THE LOCAL TAXES IMPOSED UNDER REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991.

In computing the percentage tax provided in this Section, the following shall be considered the minimum quarterly gross receipts in each particular case:

- [Autocalesa:]
 - [1. Manila and other cities P1,200.00]
 - [2. Provincial 600.00]
- Jeepney for hire -
 - 1. Manila and other cities P2,400.00
 - 2. Provincial 1,200.00
- Public utility bus -
 - Not exceeding 30 passengers P3,600.00
 - Exceeding 30 but not exceeding 50 passengers 6,000.00
 - Exceeding 50 passengers 7,200.00
- Taxis -
 - 1. Manila and other cities P3,600.00
 - 2. Provincial 2,400.00
- Car for hire (w/chauffeur) 3,000.00
- Car for hire (w/out chauffeur) 1,800.00

SEC. 12. Section 117 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

SEC. 117. Tax on franchises. Any provision of general or special law to the contrary notwithstanding, there shall be levied, assessed and collected in respect to all franchises ON ELECTRIC, GAS AND WATER UTILITIES A TAX OF TWO PERCENT (2%) ON [upon] the gross receipts DERIVED from the business covered by the law granting the franchise. [, a tax in accordance with the schedule prescribed hereunder:]

- [(a) On electric utilities, city gas and water suppliesTwo (2%) percent]
- [(b) On telephone and/or telegraph systems, and radio/or broadcasting stations ...Three (3%) percent]
- [(c) On other franchisesFive (5%) percent]

The grantee shall file the return with, and pay the tax due thereon to, the Commissioner of internal revenue or his duly authorized representative in accordance with the provisions of Section 125 of this code and the return shall be subject to audit by the Bureau of Internal Revenue, any provision of any existing law to the contrary notwithstanding.

SEC. 13. The first paragraph of Section 121 of this Code is hereby further amended to read as follows:

“Sec. 121. Tax on LIFE insurance premium. - There shall be collected from every person, company; or corporation (except purely cooperative companies or associations) doing LIFE insurance business of any sort in the Philippines a tax of five *per centum* (5%) of the total premium collected, whether such premiums are paid in money, notes, credits or any substitute for money; but premiums refunded within six months after payment on account of rejection of risk or returned for other reason to a person insured shall not be included in the taxable receipts; nor shall any tax be paid upon reinsurance by a company that has already paid the tax; nor upon premiums collected or received by any branch of a domestic corporation, firm or association doing business outside the Philippines on account of any life insurance of the insured who is a non-resident, if any tax on such premium is imposed by the foreign country where the branch is established nor upon premiums collected or received on account of any reinsurance, if [the risk insured against covers property located outside the Philippines, or] the insured [, in case] of personal insurance resides outside the Philippines, if any tax on such premiums is imposed by the foreign country where the original insurance has been issued or perfected; nor upon that portion of the premiums collected or received by the insurance companies on variable contracts (as defined in Sec. 232(2) of Presidential Decree No. 612), in excess of the amount necessary to insure the lives of the variable contract workers.”

SEC. 14. Section 236 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 236. [Supplying] INDICATION of taxpayer [account] IDENTIFICATION number (TIN). - FOR TAX IDENTIFICATION PURPOSES, [Any] ANY person required under the authority of this Code, to make, render, or file a return, statement, or [other] A document, shall be supplied with or assigned a taxpayer [account] IDENTIFICATION number (TIN) which shall [include in] BE INDICATED ON such return, statement or document [filed with the Commissioner for his proper identification for tax purposes].

[Only one account number shall be given to a person required to have one, and a] Any person who shall secure more than one [account number] TIN OR WHO FAILS TO INDICATE HIS CORRECT TIN AS REQUIRED IN THE FOREGOING PARAGRAPH, shall be criminally liable under the provisions of Section [337* (should now be 274)] 274 of this Code.

SEC. 15. Section 237 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

“SEC. 237. Registration of name or style with the revenue district officer or collection agent. - Every person, other than persons required to be registered under the provisions of Section 107 engaged in any business shall, on or before the commencement of his business, or whenever he transfers to another revenue district, register with the Revenue District Officer concerned within 10 days from the commencement of business or transfer AND SHALL PAY THE ANNUAL REGISTRATION FEE IN THE AMOUNT OF ONE THOUSAND PESOS (P1,000.00) FOR EVERY SEPARATE OR DISTINCT ESTABLISHMENT OR PLACE OF BUSINESS ANDEVERY YEAR THEREAFTER ON OR BEFORE THE LAST DAY OF JANUARY. THE FEE SHALL BE PAID TO THE REVENUE DISTRICT OFFICER, COLLECTION AGENT, AUTHORIZED TREASURER OF THE MUNICIPALITY WHERE EACH PLACE OF BUSINESS OR BRANCH IS SITUATED. In cities or municipalities where no revenue district officer is stationed, such person shall register AND PAY THE FEE PRESCRIBED HEREIN with the collection agent. The registration shall contain his name or style, place of residence, business, the place where such business is carried on, and such other information as may be required by the Commissioner in the form prescribed therefore. In the case of a firm, the names and residences of the various persons constituting the same shall also be registered. The Commissioner, after taking into

consideration the volume of sales, financial condition and other relevant factors, may require the registrant to guarantee the payment of his taxes by way of advance payment, or the posting or filing of a security, guarantee or collateral acceptable to the Commissioner."

SEC. 16. Section 238 of the National Internal Revenue Code, as amended, is hereby further amended to read as follows:

"SEC. 238. Issuance of receipts or sales or commercial invoices. - All persons, subject to an internal revenue shall for each sale or transfer of merchandise or for services rendered valued at P25.00 or more, issue DULY REGISTERED receipts or sales or commercial invoices, prepared at least in duplicate, showing the date of transaction, quantity, unit cost and description of merchandise or nature of service: *Provided, HOWEVER,* That in the case of sales, receipts or transfers in the amount of P100.00 or more, or regardless of amount, where the sale or transfer is made by A person[s subject] also [subject] LIABLE to value-added tax; or, where the receipt is issued to cover payment made as rentals, commissions, compensations or fees, receipts or invoices shall be issued which shall show the name, business style, if any, and address of the purchaser, customer, or client[.]: *PROVIDED, FURTHER,* THAT WHERE THE PURCHASER IS A VAT-REGISTERED PERSON, IN ADDITION TO THE INFORMATION HEREIN REQUIRED, THE INVOICE OR RECEIPT SHALL FURTHER SHOW THE TAXPAYER IDENTIFICATION NUMBER OF THE PURCHASER.

The original of each receipt or invoice shall be issued to the purchaser, customer or client at the time the transaction is effected, who, if engaged in business or in the exercise of profession, shall keep and preserve the same in his place of business for a period of 3 years from the close of the taxable year in which such invoice or receipt was issued, while the duplicate shall be kept and preserved by the issuer, also in his place or business, for a like period.

"The Commissioner may, in meritorious cases, exempt any person subject to an internal revenue tax from compliance with the provisions of this section."

SEC. 17. Effectivity of the Imposition of VAT on certain Goods, Properties and Services. - The Value-Added Tax shall be levied, assessed and collected on the following, two (2) years after the effectivity of this Act:

(a) services performed in the exercise of profession or calling subject to the professional tax under the Local Government Code or Republic Act 7160, and professional services performed by registered general professional partnerships; actors, actresses, talents, singers and emcees; radio and television broadcasters, choreographers; musical, radio, movie, television and stage directors; and professional athletes;

(b) services rendered by banks, non-bank financial intermediaries, finance companies and other financial intermediaries not performing quasi-banking functions;

(c) freight services rendered by international cargo vessels; and

(d) the lease or use of sports facilities and equipment by amateur players, as provided under Republic Act No. 6847, except sports facilities and equipment which are exclusively or mainly for the private use of shareholders or members of the club or organization which own or operates such sports facilities and equipment.

Prior to their inclusion in the coverage of the Value-added tax, the above services shall continue to pay the applicable tax prescribed under the present provisions of the National Internal Revenue Code as amended.

However, when public interest so requires, the President, taking into account the impact on the prices of goods and services, may, upon the recommendation of the Secretary of Finance, exclude any of the above services from the coverage of the value-added tax. *Provided, however,* That in the event of the exclusion of any of the above services the existing applicable tax under the provisions of the National Internal Revenue Code, as amended, shall continue to be paid on the services so excluded.

SEC. 18. Tax Administration Development Fund. - For the effective implementation of this Act, there is hereby created a Tax Administration Development Fund to be sourced from five (5%) percent of the increase in Value-Added-Tax collections for 1995 over that of the immediately preceding year and annually thereafter for a period of four (4) years five percent (5%) of the increase over the collection of the preceding year. Such amount which shall be retained by the Bureau of

Internal Revenue shall be considered receipts automatically appropriated for the first year. Disbursements from this fund shall be subject to such rules and guidelines as may be promulgated by the Department of Finance upon recommendation of the Commissioner of Internal Revenue. These funds shall not be used for the purchase of vehicles, the payment of salaries and incentives, creation of regular positions, and construction of buildings and offices.

SEC. 19. Rules and Regulations. - For the effective implementation of this Act, the Secretary of Finance shall, upon the recommendation of the Commissioner of Internal Revenue, promulgate the necessary rules and regulations within ninety (90) days from the effectivity hereof.

SEC. 20. Repealing Clauses. - The provisions of any special law relative to the rate of franchise taxes are hereby expressly repealed. Sections 113, 114 and 116 of the National Internal Revenue Code are hereby repealed.

Paragraphs (c), (d) and (e) of Article 39 of Executive Order No. 226, otherwise known as the "Omnibus Investments Code of 1987" are hereby repealed. *Provided, however,* That the benefits and incentives under said paragraphs shall continue to be enjoyed by enterprises registered with the Board of Investments before the effectivity of this Act.

Unless otherwise excluded by the President pursuant to Section 17 hereof, Sections 119 and 120 of the National Internal Revenue Code shall be repealed upon the expiration of two (2) years from the effectivity of this Act. During the period that the freight services rendered by international cargo vessels are not covered by the value-added-tax imposed under this Act, said services shall pay a tax at a rate of three (3%) per centum of their quarterly gross receipts derived from outgoing cargoes.

All other laws, orders, issuances, rules and regulations or parts thereof inconsistent with this Act are hereby repealed, amended or modified accordingly.

SEC. 21. This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or at least two (2) national newspapers of general circulation whichever comes earlier.

Approved,

Senator Maceda wants his vote recorded.

EXPLANATION OF VOTE OF SENATOR MACEDA

Senator Maceda: Mr. President, I neither said *Aye* nor *Nay*. But it being a *viva voce* vote, we had no way of determining. So, I just like to explain my vote.

On the Third Reading of this bill, I abstained and in spite of that, I was honored by being nominated as a Member of the Conference Committee panel. At a certain point in the Conference Committee deliberations, seeing that I had substantial reservations with the bill, I informed the Majority Leader of my desire to be relieved as a Member of the Conference Committee panel. At that point, the distinguished Chairman of the Conference Committee panel, the Chairman of the Ways and Means Committee, requested this Representation to stay on and see whether some of my views could be accommodated by the House panel. Indeed, some of my views were, and as I said, in the nature of things, some were not. That is why, earlier, I had raised the question to the distinguished Gentleman from Manila and Rizal how does one really vote or how is one guided in matters like this?

I had reservations, first of all, about the imposition of VAT on cargo. My impression, Mr. President, is, when we increase taxes of any kind or impose additional government impositions of any kind on cargo, that is restricting all kinds of commerce and automatically causing increase in prices. Especially because of the representations by the House panel — and that was one of the things again I was referring to when I asked the Gentleman from Rizal and Manila for some guidance — the House had specifically asked for exemption for passengers while agreeing that cargo should be taxed.

Second, in the matter of fertilizers and pesticides. While they are not agriculture, strictly speaking, in their primary state — and that was the rule — I did say that these two items, fertilizers and pesticides, affected agriculture so much that, again, including them in the VAT coverage would automatically increase the cost or burden of farmers.

To my surprise, they agreed to fertilizers; they disagreed on excluding pesticides, under the explanation that pesticides were being requested by the environmentalists to be excluded.

Third, I did raise the concerns of Senator Tolentino on the coverage of books, newspapers, including radio and television. But probably, out of a sense of *delicadeza* since I was and am hosting a program over DZRH, I did not press that point.

Fourth, Mr. President, I did raise the question of very low thresholds, as I explained earlier. I was hoping that we could, at

least, get something like P600,000 to P1.2 million thresholds because the peso is so inflated and costs are such, especially as I said, if we apply it to restaurants and caterers.

Then at an earlier point, but I did not press the point, there was the problem of whether the coverage of hotels, restaurants, caterers and taxis were going to go against the all-out tourism thrust that we were undertaking, including having to go all out to hold a "Miss Universe" contest here.

Anyway, in the end, the general principle adopted was to cover as much as to be covered.

The reason I finally did not insist on my being relieved from the Conference Committee — I asked to be relieved then — was that at that point, the House, including continuous calls by the Speaker not only to the Members of the House but also to the Members of the Senate panel was insisting on giving the President the right not only to include or exclude, but in the deferred items to advance the coverage. At that point, we were at a three-year exemption or deferment provision. They were saying, "We will accept the deferment for three years provided we have a provision that: Provided, however, the President should be allowed to advance the coverage from three years to two years, to one year or to zero year."

On that point, I was unequivocally against, and if they had insisted, then I would have insisted on resigning from the Conference Committee.

These are the facts as far as this Representation is concerned. And in view of the representations made by Senator Tolentino earlier, which substantially I agree with but I voted against his motion for purposes of orderly procedure, finality of procedure, the principle of estoppel as a parallel principle adopted — all these things being considered — I would therefore like to maintain my abstention which was the same vote I recorded on Third Reading.

The Presiding Officer [Senator Aquino]: Thank you.

Senator Biazon is recognized; after him, Senator Tolentino.

EXPLANATION OF VOTE OF SENATOR BIAZON

Senator Biazon: Thank you, Mr. President.

I have here a prepared explanation of my vote, but because of time constraint, I will just shorten it.

Mr. President, I signed the Conference Committee Report with reservations. This is because of my realization that there are

two conflicting priorities. One is for the Government's concern to close the fiscal gap.

But, Mr. President, one issue that I raised indicating my concern on this bill is in relation to the effect of the bill on the problem of shelter for the homeless.

I would like to thank the Chairman of the Committee who reported this out for accepting an individual amendment exempting from coverage socialized and low-cost housing. But upon further examination, Mr. President, I realize now that there is still a possible effect on the provision for shelter for our homeless.

So, there are these two conflicting priorities of concern and initially, I was intending to abstain from voting, but because of the window that was opened for the remedies to the basic concern that I had as Chairman of the Committee on Housing, Development and Resettlement that, indeed, the remedy may include the filing of proposal for amending certain provisions of the Urban Development and Housing Act, I now change my vote from abstention to a *Yes* vote with reservation.

Thank you, Mr. President.

The Presiding Officer [Senator Aquino]: Thank you, Senator Biazon.

Senator Tolentino is recognized.

EXPLANATION OF VOTE OF SENATOR TOLENTINO

Senator Tolentino: Mr. President, very briefly, I have already explained my position on this bill. I just want to say that what transpired in this Chamber tonight convinces me more than ever that we are passing this bill and making it into law for the sake of pleasing the IMF. I must confess I have an allergy to the IMF because I believe intervention by the IMF is a limitation upon our sovereignty as a nation.

One more thing is that I now feel very certain that this bill is not necessary as far as our finances and our people are concerned. The amount of P9 billion that could be derived from this measure, as I explained before, can easily be offset by merely reducing the appropriations in our Budget. If it is necessary to make a reduction in our Budget, then the item that could be reduced very easily would be the item on our debt servicing.

Mr. President, with a stronger conviction tonight that this bill is not for our country's sake but for the sake of complying with the conditionalities of the IMF, I register a *No* vote.

The Presiding Officer [Senator Aquino]: Thank you, Senator Tolentino.

Senator Coseteng: Mr. President.

The Presiding Officer [Senator Aquino]: Senator Coseteng is recognized.

EXPLANATION OF VOTE OF SENATOR COSETENG

Senator Coseteng: Mr. President, I vote *No* on this measure and reserve the right to submit a written explanation of my vote in due time.

Thank you.

The Presiding Officer [Senator Aquino]: Thank you. Senator Tañada is recognized.

EXPLANATION OF VOTE OF SENATOR TAÑADA

Senator Tañada: Mr. President, I am voting *No* to this Bicameral Conference Committee Report on the VAT measure for a number of reasons.

One, the zero rating given to agricultural cooperatives in the Senate version has been taken out in this Bicameral Conference Committee Report.

Second, pesticides and herbicides which under the Senate version were exempted from the VAT coverage, are now subject to VAT in this Bicameral Conference Committee Report.

As I said during my interpellation of Senator Herrera, while in the long run the Integrated Pest Management should be the way to ensure sustainability in agriculture, I believe that our farmers must be given a transition period in order to shift to a new system of farming. If we can give banks, moviestars and other professionals a deferment of two years before they will be covered by VAT, I cannot understand why we cannot give the same treatment to our small farmers.

Mr. President, Article VI of Section 28 of our Constitution expressly provides that the rule of taxation shall be uniform and equitable, and that Congress shall evolve a progressive system of taxation. I do not see that as taking place at all in this VAT measure we are now approving.

As a matter of fact, it has been commented on by media and by the Manila News Features and Commentaries report, in particular last April 23, that VAT is the cornerstone of the ongoing tax reform of the Administration. If that is really the case, Mr. President, then it is very clear that this does not go along with the mandate of the Constitution which calls for a progressive system of taxation. In fact, there is a provision in the VAT itself

which states that this is an indirect taxation and as such, its regressiveness cannot be denied.

And so, Mr. President, I am voting *No* for these reasons and for the reasons that have also been expressed by the distinguished Senator from Manila. Thank you.

The Presiding Officer [Senator Aquino]: Senator Herrera and then Senator Macapagal.

EXPLANATION OF VOTE OF SENATOR HERRERA

Senator Herrera: I would just like to make my reservations, Mr. President, that I will be allowed an explanation of my vote because it is very important that some of the points raised by the Gentleman from Manila, Senator Tolentino, who I have a very high respect, I think, needs clarification. Mr. President, I would like my explanation be given that opportunity so I would like to make that reservation.

May I just point out, Mr. President, that it is not correct to say this bill will, in effect, be taxing especially the poor as I have explained earlier. The other points I would like to stress here, Mr. President, is that we have to capture the philosophy of the shifting of emphasis from income to consumption. That I think should be put in the mind of our Colleagues and in the minds of our people.

I would like to submit my explanation tomorrow, Mr. President.

The Presiding Officer [Senator Aquino]: Thank you. Senator Macapagal is recognized.

The following is the written Explanation of Vote submitted by Senator Herrera:

Senator Herrera: The controversy which surrounded the VAT has given rise to both facts and fallacies.

After the debates, we should rise above biases and misconceptions and come to terms with the rationale, nature, and effects of the VAT reform. Allow me to debunk the misconceptions.

Fallacy 1. The VAT reform is an IMF dictation.

The VAT reform was initiated by the Aquino Government in 1986 as part of its Comprehensive Reform Program. At that time, Government's inten-

tion was to put in place a revenue program that would support economic recovery.

The 1986 Tax Reform Program was formulated by the then Economic Ministers, including Senator Alberto Romulo, who was the Minister of the Budget, Minister Jaime V. Ongpin of Finance, and Minister Solita Monsod of NEDA. It was approved by the Cabinet which included then Secretaries Maceda and Gonzales in June 1986. The IMF was never part of that picture.

It is however fortuitous that, at that time, the VAT was already being applied in 60 countries. The good features of the VAT have earned its favorable endorsements from Governments which have adopted it, international institutions such as the IMF, researchers and academicians.

The VAT in the Philippines was part of the Government's objectives of putting in place a superior form of sales taxation which could generate buoyant revenues, promote exports, and enhance efficiency in resource allocation.

Fallacy 2. The VAT is a regressive tax and is not in accord with the Constitutional provision that the rule of taxation shall be uniform and equitable.

The Constitutional mandate should be taken within the context of the progressivity of the entire tax system and not of each particular tax. By itself, however, the VAT passes the progressivity criterion. Studies on who bears the burden of the VAT by Government and academic institutions prove its progressive character. The 1990 PIDS study by Rosario Manasan concluded that the VAT system is even slightly more progressive than the system it replaced. The findings of the 1990 study of Angel Yoingco found that the VAT lowered the burden of the sales tax which was replaced by the VAT. The former sales tax reduced incomes by as much as 6 percent. In contrast, the VAT burden was 2.62 percent of incomes of households in 1990.

The criticism on the regressivity of the VAT lies on the low tax burden of families in the highest income decile. This is because the VAT excluded many goods and services that are consumed by the affluent. These include food served in restaurants, hotel services and services of professionals such as tax lawyers, accountants and dermatologists. Many expenditure items of those with the greater capability to pay are not levied VAT. This means that the present VAT burden is not

proportionately shared by in the upper income strata.

The broadened VAT is first and foremost an equity measure. As of today, certain goods such as medicine, grocery items, appliances, soft drinks and fruit juices, are subject to VAT. Persons rendering services such as beauticians, tailors, researchers, contractors, are paying the VAT. The fact that they are subject to VAT and other activities are not, raises an equity issue.

What makes certain sectors such as professionals, actors and actresses, lessors and developers of real property, sellers and providers of sports facilities, more special than others?

Why should the burden of financing Government fall all the time on those who are inside the VAT base?

Why cannot their burden be lightened by including all goods and services in the VAT base?

Should not everyone contribute to the costs of financing the requirements of national development?

Fallacy 3. The VAT is a new and additional tax imposition.

The VAT is not a new tax. It was introduced in 1988 to replace more than 80 indirect taxes which include the following:

- manufacturer's sales tax
- advance sales tax
- compensating tax
- turnover tax
- miller's tax
- contractor's tax
- broker's tax
- tax on lessors of personal property
- privilege taxes
- and various percentage and fixed taxes

The VAT reform which we legislated into law only

broadens the existing VAT coverage. The VAT will replace the following taxes which are currently levied on goods and services which will now form part of the VAT base:

- 4 percent to 25 percent tax on restaurants and caterers
- 12 percent tax on hotels and motels
- 6 percent tax on dealers in securities
- 5 percent tax on lending investors
- 3 percent tax on taxi cabs, utility cars and tourist buses
- 3 percent tax on common carriers relative to the transport of their cargoes
- 5 percent tax on finance companies
- 3 percent franchise tax on telephone, telegraph, radio broadcasting, and other franchises

Fallacy 4. The VAT will lead to an increase in prices equivalent to the 10 percent VAT rate.

This is not correct.

1. The VAT will replace percentage and fixed taxes which are currently levied on goods and services. Traders should therefore remove these taxes from the prices of the commodities prior to the imposition of the VAT.

2. The percentage taxes which VAT replaced are levied on the gross. Since the VAT is a tax on value-added, traders are able to reduce their VAT due by the amount of VAT which they paid on their inputs. Effectively, the VAT burden is not 10 percent. The more inputs to production, the lower will be the effective VAT rate.

This credit mechanism of the VAT also explains why it is important to include all goods and services in the VAT base. If a good is exempt from VAT, a trader cannot deduct the VAT on the raw materials which went into the production of such a good. The VAT then is levied on the gross instead of on the value-added. The multiplication or cascading of taxes would happen in such a situation.

Issue 5. VAT is inflationary.

The major components of the consumers price index (CPI) are exempt from the VAT. These are food which account for 50 percent; fuel, light and water - 5.2 percent; transportation - 4.7 percent; and rental or imputed rent - 11.7 percent (socialized housing is exempt from the VAT). Thus, almost 72 percent of the expenditures items of the average Filipino is exempt from the VAT. It is therefore not inflationary.

The worldwide experience with the VAT, including the Philippine experience in 1988, suggests that the VAT did not have any major impact on the CPI. In a minority of cases, the VAT is associated with a once-and-for-all increase of the CPI. This was more so because of the transition problems to the VAT, i.e. traders unscrupulously jacking up their prices. In countries which are well prepared for a VAT reform, such as Taiwan, the VAT even led to decreasing prices.

Fallacy 6. The VAT is anti-poor.

This is farthest from the truth. Much care went into ensuring that the commodities which constitute the consumers' basket of low income families are exempt from the VAT. Food products in their original state such as rice, vegetables, fish and poultry account for 58.2 percent of the expenditures of the poorest families. Fuel, light and water constitute 7.9 percent; rent, 8 percent; transportation, 2.1 percent; medical care and education, 2.1 percent. Altogether, 78.3 percent of the expenditures of the poor are exempt from VAT.

Fallacy 7. The VAT will hit even the small traders such as the *carinderias*.

This is not true. The VAT law provides for exemptions for small traders, e.g. those whose annual gross sales are from P480,000 to P720,000 per annum. This means that a trader with daily sales ranging from P1315 to P1973 will not pay the VAT. If a trader makes more than P1973 in gross sales every day, should he not share in the costs of financing the delivery of public goods and services?

Fallacy 8. The imposition of the VAT on many goods and services such as on television, taxicabs, newspapers, and other negates Government policies on freedom of speech and tourism.

Taxation should not be expected to carry out all

Government policies. This will only make the tax system unproductive, incoherent, inequitable, and inefficient.

Instead, tax policies should focus on financing the requirements of development.

Other policy tools such as the budget, infrastructure development, transparency in Government, and maintenance of peace and order are more effective than taxation in promoting tourism and freedom of expression.

The following is the written explanation of Vote submitted by Senator Macapagal:

EXPLANATION OF VOTE OF SENATOR MACAPAGAL

Senator Macapagal: Mr. President, I am submitting my Explanation of Vote tonight. I just want to clarify that my understanding of the Conference Committee Report is that now it will at last retain the exemption of agricultural products even as they go through various stages of processing.

The moment has finally come for the Senate to ratify the single major revenue measure that it committed to consider during the Economic Summit of September 1993.

Personally, I have my reservations about the Value-Added Tax (VAT) or any other tax measure. I believe that our budgetary deficit should be covered by better tax collections and less government expenditures. This has in fact been the stand of our Chamber, including the Senate leadership and the leadership of the Ways and Means Committee. Thus as a Chamber, we have resisted exacting the scores of tax measures sent to us by the Executive for action.

In the Economic Summit, the Senate committed to consider only two tax measures of the many proposed by the Executive: the VAT refinements and the stock transfer tax. The stock transfer tax was a measure intended to increase the progressivity of the tax system while the VAT refinements bill is the single measure primarily intended to raise revenue.

Considering the stand that the Senate leadership had taken on how to reduce the budgetary deficit and that as a Chamber, we finally agreed to pass on Third

Reading only the two said bills, on my part, I decided that I would take the opportunity provided by the VAT amendments to propose the ratification of certain biases against agriculture contained in the present law on VAT. I refer specifically to the treatment of agricultural products when they go through further processing.

The present law on VAT exempts the sale or importation in their original state of agricultural food products. However, when these agricultural products undergo a processing stage, a value added tax is imposed on the gross selling price including the agricultural component. This has discouraged the forward linkage of the agricultural sector.

For instance, according to the present VAT law, raw cane sugar in its original state is exempt from VAT. But if the gross selling price is the basis of VAT on refined sugar, then the exemption of raw sugar from VAT is negated. The concept of the value-added, however, logically means that it is only the tolling fee which should actually be the value added to an exempt commodity such as raw cane sugar. Therefore, it was agreed that the law should be clarified to provide that in the case of exempt item, the basis of VAT should be the tolling fee and trading refined sugar. It was very clear that the original objective and intent of the VAT law is to exempt the agricultural portion. If the gross selling price is the basis, then the exemption of agricultural products is negated and it was agreed that that should be corrected in the amendment to the law.

Examining the Conference Committee Report, I do not find a provision specifically making such a correction. However, I retain my faith and confidence in the Chairman of the Committee of Ways and Means, Senator Herrera, and in his assurance that the Conference Committee Report, in combination with the anticipated revenue regulations, will indeed have the effect of retaining the exemption of agricultural products even if they go through further processing.

My understanding, therefore, is that the assurance refers, among others, to Section 4 of the Conference Committee bill amending Section 103 of the National Internal Revenue Code. Section 103 originally and as amended provides that agricultural products "shall be considered in their original state even if they have undergone the simple processes of preparation or preservation for the market." My understanding is that the simple process of preparation for the market will be defined in the implementing revenue regulations as

including milling and refining of sugar.

This will correct a bias against agriculture, especially against locally-produced agriculture. Especially as far as sugar inputs to food exports is concerned, this will correct a bias against locally-produced sugar. When food exporters import sugar for their needs, they enjoy tax and duty free privileges. But when they buy domestic sugar, they pay VAT. The anticipated definition of the process of preparation for the market will correct this bias and put domestic sugar on same footing with imported sugar.

In addition, the Conference Committee Report corrects other biases against agriculture. Cotton and cotton seeds in their original state and copra, which paid VAT before, are now exempt. Ordinary salts when processed used to be subject to VAT, but will now be exempt. Fertilizers are now also exempt from VAT.

It is mainly for the reason that the provisions of the VAT Conference Committee Report will correct these biases against agricultural and that, at last, agricultural products will retain their VAT exemption even as they go through various stages of processing that I cast a *Yes* vote to the VAT Conference Committee Report.

The Presiding Officer [Senator Aquino]: Thank you. The Majority Leader is recognized.

Senator Romulo: Mr. President, may I make a reservation to submit my *yes* vote in writing.

The Presiding Officer [Senator Aquino]: The Chair would like also to submit a written explanation of his vote so that he can include his reservations.

The following is the written Explanation of Vote submitted by Senator Aquino:

Mr. President, I join my Colleague, Senator Tañada, in his manifested deep concern over the exclusion of cooperative transactions as among those exempted from the coverage of the restructured value-added tax

(VAT) under this Conference Committee Report.

As we are very well aware of, it was the intention of the Members of the 8th Congress of the Philippines that cooperatives shall be given maximum taxation privileges as they are the potent instruments in promoting self-reliance and in harnessing the people's power for economic development and social justice, as it was in fact, granted to them by Republic Act No. 6938, the Cooperative Code of the Philippines.

It is under this premise that I believe that transactions of duly registered cooperatives organized under Republic Act No. 6938 should have been exempted from the coverage of value-added tax.

However, after full deliberations have been made by this august Chamber relative to this issue, I have now come to believe that the approval of this Conference Committee Report is for the good of the greatest number of our people.

In view thereof, it is with a heavy heart that I cast my vote in favor of this Conference Committee Report.

Thank you, Mr. President.

Senator Ople: Mr. President, may I reserve the explanation of my vote in writing because of the lateness of the hour.

The Presiding Officer [Senator Aquino]: Yes, duly noted.

This is to formally declare the Conference Committee approved by the majority.

ADJOURNMENT OF THE SESSION

Senator Romulo: Mr. President, because of the lateness of the hour, I move that we adjourn this session until 10:00 tomorrow morning.

The Presiding Officer [Senator Aquino]: Is there any objection? [*Silence*] Hearing none, session is adjourned until 10:00 tomorrow morning.

It was 9:49 p.m.