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R. A. NO. 7653/ S. B. No 1235

NEW CENTRAL BANK ACT

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May 19, 1993

On the other hand, the Committee on Women and Family Relations has the following jurisdiction: All matters relating to the implementation of the constitutional provisions regarding women and family relations.

We shall be guided accordingly, and we shall make our report at the earliest possible time, Mr. President.

The President. So noted.

BILL ON SECOND READING

Senate Bill No. 1235 — The New Central Bank Act

Senator Romulo. Mr. President, I move that we consider Senate Bill No. 1235 as reported out under Committee Report No. 138.

The President. Consideration of Senate bill No. 1235 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. 1235, entitled

THE NEW CENTRAL BANK ACT.

The following is the full text of Senate Bill No. 1235:

COMMITTEE REPORT NO. 138

Submitted by the Committee on Banks, Financial Institutions, and Currencies on May 17, 1993

Re: Senate Bill No. 1235

Recommending its approval in substitution of Senate Bill Nos. 23, 367, 844, 868 and 945.

Sponsors: Senator Roco and the Committee on Banks, Financial Institutions, and Currencies

MR. PRESIDENT:

The Committee on Banks, Financial Institutions, and Currencies to which were referred the following:

Senate Bill No. 23, introduced by Senators Romulo, Sotto III, Tatad, Herrera, and Coseteng, entitled

AN ACT ESTABLISHING AN INDEPENDENT CENTRAL MONETARY AUTHORITY, AND FOR OTHER PURPOSES;

Senate Bill No. 367, introduced by Senator Osmeña, entitled AN ACT ESTABLISHING AN INDEPENDENT CENTRAL MONETARY AUTHORITY, DEFINING ITS ROLE, RESPONSIBILITIES, OBJECTIVES AND POWERS IN THE ADMINISTRATION OF THE MONETARY, CREDIT AND BANKING SYSTEM, AND FOR OTHER PURPOSES;

Senate Bill No. 844, introduced by Senator Gonzales, entitled AN ACT ESTABLISHING AN INDEPENDENT CENTRAL MONETARY AUTHORITY, DEFINING ITS RESPONSIBILITIES AND POWERS, AND FOR OTHER PURPOSES;

Senate Bill No. 868, introduced by Senator Romulo, entitled AN ACT ESTABLISHING AN INDEPENDENT CENTRAL MONETARY AUTHORITY, DEFINING ITS RESPONSIBILITIES AND POWERS, AND FOR OTHER PURPOSES;

and Senate Bill No. 945, introduced by Senator Guingona, entitled

AN ACT ESTABLISHING AN INDEPENDENT CENTRAL MONETARY AUTHORITY, DEFINING ITS ROLE, RESPONSIBILITIES AND POWERS IN THE ADMINISTRATION OF THE MONETARY, BANKING AND CREDIT SYSTEM, AND FOR OTHER PURPOSES,

has considered the same and has the honor to report them back to the Senate with the recommendation that Senate Bill Nos. 23, 367, 844, 868, and 945 be substituted by the attached bill, Senate Bill No. 1235, prepared by the Committee, entitled

THE NEW CENTRAL BANK ACT,

be approved without amendments in consolidation of and as substitute for Senate Bill No. 23, Senate Bill No. 367, Senate Bill No. 844, Senate Bill No. 868 and Senate Bill No. 945 introduced by Senators Romulo, Sotto III, Tatad, Herrera, Coseteng, Osmeña, Gonzales and Guingona, submitted by Senator Roco and the Committee on Banks, Financial Institutions and Currencies.

Respectfully submitted:

(Sgd.) RAUL S. ROCO
Chairman

Committee on Banks, Financial Institutions,
and Currencies

(Sgd.) BLAS F. OPLE
Vice-Chairman

MEMBERS

(Sgd.) ANNA DOMINIQUE M.L. COSETENG

(Sgd.) NEPTALI A. GONZALES
— with amendments

(Sgd.) JOHN H. OSMEÑA

(Sgd.) LETICIA RAMOS-SHAHANI
— with amendments

(Sgd.) FREDDIE N. WEBB

EX OFFICIO MEMBERS

(Sgd.) TEOFISTO T. GUINGONA, JR.
President Pro Tempore
— with amendments

(Sgd.) ALBERTO G. ROMULO
Majority Leader

(Sgd.) WIGBERTO E. TAÑADA
Minority Leader
- with amendments

HON. EDGARDO J. ANGARA
President of the Senate
Manila

SENATE BILL NO. 1235

In consolidation of and as substitute for Senate Bill No. 23, Senate Bill No. 367, Senate Bill No. 844, Senate Bill No. 868, and Senate Bill No. 945, introduced by Senators Romulo, Sotto III, Tatad, Herrera, Coseteng, Osmeña, Gonzales, Guingona, Roco and the Committee on Banks, Financial Institutions and Currencies

THE NEW CENTRAL BANK ACT

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

**CHAPTER I
ESTABLISHMENT AND ORGANIZATION
OF THE BANGKO SENTRAL NG PILIPINAS**

ARTICLE I — Creation, Responsibilities and Corporate Powers of the Bangko Sentral

SECTION 1. *Creation of the Bangko Sentral.* - There is hereby established an independent central monetary authority, which shall be a body corporate known as the Bangko Sentral ng Pilipinas, hereafter Bangko Sentral.

The capital of the Bangko Sentral shall be Ten billion (P10,000,000,000.00) pesos, to be subscribed and paid for by

government of the Republic, hereafter government, upon the effectivity of this Act.

SEC. 2. *Responsibility and Primary Objective.* - The Bangko Sentral shall provide policy directions in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as provided in this Act and other pertinent laws over the operations of finance companies and non-bank financial institutions performing quasi-banking functions, hereafter quasi-banks, and institutions performing similar functions.

The primary objective of the Bangko Sentral is to maintain price stability conducive to a balanced and sustainable growth of the economy.

SEC. 3. *Place of Business.* - The Bangko Sentral shall have its principal place of business in Metro Manila, but may maintain branches, agencies and correspondents in such other places as the proper conduct of its business may require.

SEC. 4. *Corporate Powers.* - The Bangko Sentral is hereby authorized to adopt, alter, and use a corporate seal which shall be judicially noticed; to enter into contracts; to lease or own real and personal property, and to sell or otherwise dispose of the same; to sue and be sued; and otherwise to do and perform any and all things that may be necessary or proper to carry out the purposes of this Act.

The Bangko Sentral may acquire and hold such assets and incur such liabilities in connection with its operations authorized by the provisions of this Act, or as are essential to the proper conduct of such operations.

The Bangko Sentral may compromise, condone or release, in whole or in part, any claim of or settled liability to the Bangko Sentral, regardless of the amount involved, under such terms and conditions as may be prescribed by the Monetary Board to protect the interests of the Bangko Sentral.

ARTICLE II — The Monetary Board

SEC. 5. *Composition of the Monetary Board.* - The powers and functions of the Bangko Sentral shall be exercised by a Monetary Board composed of seven (7) members appointed by the President of the Philippines for a term of six (6) years. Membership in the Monetary Board shall be of cabinet rank and appointments thereto shall be subject to confirmation by the Commission on Appointments. The seven (7) are:

(a) The Governor of the Bangko Sentral, who shall be the Chairman of the Monetary Board. Whenever the Governor is unable to attend a meeting of the Board, a Deputy Governor designated by him shall act as Chairman;

(b) A member of the Cabinet to be designated by the President of the Philippines. Whenever the designated Cabinet

Member is unable to attend a meeting of the Board, he shall designate an Undersecretary in his Department to attend as his alternate; and

(c) Five (5) members who shall come from the private sector, three (3) of whom shall serve full-time and two (2) of whom shall serve part-time: *Provided, however,* That of the members first appointed under the provisions of this subsection, those who shall serve full-time shall have terms of two (2), four (4), and six (6) years, respectively, and those who shall serve part-time shall have terms of office of three (3) and five (5) years, respectively.

SEC. 6. *Vacancies.* - Any vacancy in the Monetary Board created by the death, resignation, or removal of any member shall be filled by the appointment of a new member to complete the unexpired period of the term of the member concerned.

SEC. 7. *Qualifications.* - The members of the Monetary Board must be natural-born citizens of the Philippines, of good moral character, unquestionable integrity, of known probity, and patriotism, and with recognized competence in disciplines which can provide productive inputs in the formulation of monetary policy.

SEC. 8. *Disqualifications.* - A member of the Monetary Board shall not be a director, officer, employee, consultant, or stockholder of any bank, quasi-banks or financial institutions, or their subsidiaries.

The members of the Monetary Board coming from the private sector shall not hold any other public office or public employment during their tenure.

SEC. 9. *Removal.* - The President may remove any member of the Monetary Board for any of the following reasons:

(a) If the Member is subsequently disqualified under the provisions of Section 8 of this Act; or

(b) If he is physically or mentally incapacitated that he cannot properly discharge his duties and responsibilities and such incapacity has lasted for more than six (6) months; or

(c) If the member is guilty of acts or operations which are of fraudulent or illegal character or which are manifestly opposed to the aims and interests of the Bangko Sentral; or

(d) If the member no longer possesses the qualifications specified in Section 7.

SEC. 10. *Meetings.* - The Monetary Board shall meet at least once a week. The Board may be called to a meeting by the Governor of the Bangko Sentral or by two (2) other members of the Board.

The presence of four (4) members shall constitute a quorum.

Unless otherwise provided in this Act, all decisions of the Monetary Board shall require the concurrence of at least four (4) members.

SEC. 11. *Attendance of the Deputy Governors.* - The Deputy-Governors shall attend the meetings of the Monetary Board with the right to be heard.

SEC. 12. *Remuneration.* - The remuneration of the Governor of the Bangko Sentral and the full-time members of the Monetary Board shall be fixed by the President of the Philippines at a sum which recognizes the importance and responsibilities of the position: *Provided,* That their respective emoluments shall in no case exceed One hundred thousand pesos (P100,000.00) a month. The remuneration fixed herein shall be the ceiling for fixing the salary, allowances, and other emoluments of all the other personnel in the Bangko Sentral.

The part-time members of the Monetary Board shall receive a per diem of Five thousand pesos (P5,000.00) for every Board meeting attended.

SEC. 13. *Withdrawal of Persons having a Personal Interest.* - In addition to the requirements of Republic Act No. 6713, any member of the Monetary Board with personal or pecuniary interest in any matter in the agenda of the Monetary Board shall disclose his interest to the Board and shall retire from the meeting when the matter is taken up. The decision taken on the matter shall be made public. The minutes shall reflect the disclosure made and the retirement of the member concerned from the meeting.

SEC. 14. *Exercise of Authority.* - In the exercise of its authority, the Monetary Board shall:

(a) Issue rules and regulations it considers necessary for the effective discharge of the responsibilities and exercise of the powers vested upon the Monetary Board and the Bangko Sentral. The rules and regulations issued shall be reported to the President and the Congress within fifteen (15) days from the date of their issuance;

(b) Direct the management, operations, and administration of the Bangko Sentral, reorganize its personnel, and issue such rules and regulations as it may deem necessary or convenient for this purpose. The legal units of the Bangko Sentral shall be under the exclusive supervision and control of the Monetary Board;

(c) Establish a human resource management system which shall govern the selection, hiring, appointment, transfer, promotion, or dismissal of all personnel. Such system shall aim to establish professionalism and excellence at all levels of the Bangko Sentral in accordance with sound principles of management;

A compensation structure, based on job evaluation studies and wage surveys and subject to the Board's approval, shall

be instituted as an integral component of the Bangko Sentral's human resource development program: *Provided*, That the Monetary Board shall make its own system conform as closely as possible with the principles provided for under Republic Act No. 6758. The Monetary Board may grant across-the-board salary increases or modify the compensation structure as to result in higher salaries.

On the recommendation of the Governor, appoint, fix the remunerations and other emoluments, and remove personnel of the Bangko Sentral, subject to pertinent civil service laws: *Provided*, That the Monetary Board shall have exclusive and final authority to promote, transfer, assign, or reassign personnel of the Bangko Sentral and these personnel actions are deemed made in the interest of the service and not disciplinary: *Provided, further*, That the Monetary Board may delegate such authority to the Governor under such guidelines as it may determine.

(d) Adopt an annual budget for and authorize such expenditures by the Bangko Sentral as are in the interest of the effective administration and operations of the Bangko Sentral in accordance with applicable laws and regulations; and

(e) Indemnify its members, officers, or employees of the department performing supervision and examination functions against all costs and expenses reasonable incurred by such persons in connection with any civil or criminal action, suit or proceedings to which he may be, or is, made a party by reason of the performance of his functions or duties, unless he is finally adjudged in such action or proceeding to be liable for negligence or misconduct.

In the event of a settlement or compromise, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Bangko Sentral is advised by external counsel that the person to be indemnified did not commit any negligence or misconduct.

The costs and expenses incurred in defending the aforementioned action, suit or proceeding may be paid by the Bangko Sentral in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the member, officer, or employee to repay the amount advanced should it ultimately be determined by the Monetary Board that he is not entitled to be indemnified as provided in this subsection.

SEC. 15. Responsibility. - Any member of the Monetary Board who willfully violates this Act or who is guilty of negligence or acts of omission or fails to exercise extraordinary diligence in the performance of his duties shall be held liable for any loss or injury suffered by the Bangko Sentral as a result of such violation, negligence, omission or failure to exercise extraordinary diligence.

Similar responsibility shall apply to members, officers, employees of the Bangko Sentral for: (1) The disclosure of

any information of a confidential nature, or any information on the discussions or resolutions of the Monetary Board, or about the confidential operations of the Bangko Sentral, unless the disclosure is in connection with the performance of official functions with the Bangko Sentral, or is with prior authorization of the Monetary Board or the Governor: or (2) The use of such information for personal gain or to the detriment of the government, the Bangko Sentral or third parties; *Provided, however*, That any data or information required to be submitted to the President and/or the Congress, or to be published under the provisions of this Act shall not be considered confidential.

ARTICLE III — The Governor and Deputy Governors of the Bangko Sentral

SEC. 16. Powers and Duties of the Governor. - The Governor shall be the chief executive officer of the Bangko Sentral. His powers and duties shall be:

(a) To prepare the agenda for the meetings of the Monetary Board and to submit for the consideration of the Board the policies and measures which he believes to be necessary to carry out the purposes and provisions of this Act;

(b) To execute and administer the policies and measures approved by the Monetary Board;

(c) To direct and supervise the operations and internal administration of the Bangko Sentral. The Governor may delegate certain of his administrative responsibilities to other officers of the Bangko Sentral, subject to the rules and regulations of the Monetary Board; and

(d) To appoint and fix the remunerations and other emoluments of personnel below the rank of department head in accordance with the position and compensation plans approved by the Monetary Board, as well as to impose disciplinary measures upon personnel of the Bangko Sentral subject to the provisions of Section 14(c) of this Act; *Provided*, That removal of personnel shall be with the approval of the Monetary Board;

(e) To render opinions, decisions, or rulings, which shall be final and executory until reversed or modified by the Monetary Board, on matters regarding application or enforcement of laws pertaining to institutions supervised by the Bangko Sentral and laws pertaining to quasi-banks, as well as regulations, policies or instructions issued by the Monetary Board, and the implementation thereof; and

(f) To exercise such other powers as may be vested in him by the Monetary Board.

SEC. 17. Representation of the Monetary Board and the Bangko Sentral. - The Governor of the Bangko Sentral shall be the principal representative of the Monetary Board and of the Bangko Sentral and, in such capacity and in accordance

with the instructions of the Monetary Board, he shall be empowered:

(a) To represent the Monetary Board and the Bangko Sentral in all dealings with other offices, agencies and instrumentalities of the government and all other persons or entities, public or private, whether domestic, foreign or international;

(b) To sign contracts entered into by the Bangko Sentral, notes and securities issued by the Bangko Sentral, all reports, balance sheets, profit and loss statements, correspondence and other documents of the Bangko Sentral. The signature of the Governor may be in facsimile whenever appropriate;

(c) To represent the Bangko Sentral, either personally or through counsel, including private counsel, as may be authorized by the Monetary Board, in any legal proceedings or action; and

(d) To delegate his power to represent the Bangko Sentral, as provided in subsections (a), (b) and (c) of this Section, to other officers upon his own responsibility.

SEC. 18. Authority of the Governor in Emergencies. - In case of emergencies where time is insufficient to call a meeting of the Monetary Board, the governor of the Bangko Sentral, with the concurrence of two (2) other members of the Monetary Board, may decide any matter or take any action within the authority of the Board.

The Governor shall submit a report to the President and Congress within seventy-two (72) hours after the action has been taken.

At the soonest possible time, the governor shall call a meeting of the Monetary Board to submit his action for ratification.

SEC. 19. Outside Interests of the Governor and the Full-time Members of the Board. - The Governor of the Bangko Sentral and the full-time members of the Board shall limit their professional activities to those pertaining directly to their positions with the Bangko Sentral; accordingly, they may not accept any other employment, whether public or private, remunerated or *ad honorem*, with the exception of positions in eleemosynary organizations, and civic, cultural or religious organizations.

SEC. 20. Deputy Governor. - The Governor of the Bangko Sentral, with the approval of the Monetary Board, shall appoint one or more deputy-governors who shall perform duties as may be assigned to them by the Governor and the Board.

In the absence of the Governor, a deputy governor designated by the Governor shall act as chief executive of the Bangko Sentral and shall exercise the powers and perform

the duties of the Governor. Whenever the Governor is unable to attend meetings of government boards or councils in which he is an *ex officio* member pursuant to provisions of special laws, a deputy governor as may be designated by the Governor shall be vested with authority to participate and exercise the right to vote in such meetings.

ARTICLE IV — Departments of the Bangko Sentral

A. DEPARTMENT OF ECONOMIC RESEARCH

SEC. 21. Responsibilities of the Department. - The Bangko Sentral shall establish and maintain a Department of Economic Research which shall prepare data and conduct economic research for the guidance of the Monetary Board in the formulation and implementation of its policies.

Toward this end, the Department of Economic Research shall prepare forecasts of the balance of payments of the Philippines, statistics on the monthly movement of the monetary aggregates and of prices and other statistical series and economic studies useful for the formulation and analysis of the monetary, banking and exchange policies.

The scope of the other functions and duties of the department shall be defined and prescribed by the Monetary Board.

The Deputy Governor for economic research, if one should be designated, and the head of the Department of Economic Research must be an economist who has extensive training and exposure to the relevant fields of economics, money, and banking and has adequate experience in economic research.

SEC. 22. Authority to Obtain Information. — The Department of Economic Research shall have the authority to request from any person or entity, including government offices and instrumentalities, any data which the Bangko Sentral may require for the proper discharge of its functions and responsibilities. The Bangko Sentral shall have the power to issue a subpoena for the production of the books and records of all such persons and entities for the aforesaid purpose. Those who refuse without justifiable cause the subpoena to supply the Bangko Sentral with data requested or required, shall be subject to the penalties provided in Section 32.

Data on individual firms, other than banks, gathered by the Department of Economic Research and other departments or units of the Bangko Sentral shall not be made available to any person or entity outside of the Bangko Sentral whether public or private except under order of the court or under such conditions as may be prescribed by the Monetary Board: *Provided, however*, That the collective data on firms may be released to interested persons or entities; *Provided, finally*, That in the case of data on banks, the provisions of Section 26 of this Act shall apply.

SEC. 23. Training of Technical Personnel. — The Bangko Sentral shall promote and sponsor the training of technical personnel in the field of money and banking. Toward this end, the Bangko Sentral is hereby authorized to defray the costs of study, at home or abroad, of qualified employees of the Bangko Sentral, of promising university graduates or of any other qualified persons who shall be determined by proper competitive examinations. The Monetary Board shall prescribe rules and regulations to govern the training program of the Bangko Sentral.

B. SUPERVISION AND EXAMINATION DEPARTMENTS

SEC. 24. Supervision and Examination Departments. - The Bangko Sentral shall have supervising and examining departments which shall be charged with the supervision and periodic or special examinations of banking institutions and quasi-banks, including their subsidiaries and affiliates.

For purposes of this Section, a subsidiary means a corporation more than fifty percent (50%) of the voting stock of which is owned by a bank or quasi-bank and an affiliate means a corporation where fifty percent (50%) or less of the voting stock is owned by a bank or quasi-bank or which is related or linked to such institution through common stockholders or such factors as may be determined by the Monetary Board. The supervising and/or examining departments shall discharge their responsibilities in accordance with the instructions of the Monetary Board.

The department heads and the examiners of the supervising and/or examining departments are hereby authorized to administer oaths to any director, officer, or employee of any institution under their respective supervision or subject to their examination and to compel the presentation of all books, documents, papers or records necessary in their judgment to ascertain the facts relative to the true condition of any institution as well as the books and records of persons and entities relative to or in connection with the operations, activities or transactions of the institution under examination.

No restraining order or injunction shall be issued by the court enjoining the Bangko Sentral from examining any institution subject to supervision or examination by the Bangko Sentral, unless there is convincing proof that the action of the Bangko Sentral is plainly arbitrary and made in bad faith and the petitioner or plaintiff files with the clerk or judge of the court in which the action is pending a bond executed in favor of the Bangko Sentral in an amount to be fixed by the court. The restraining order or injunction shall be refused or, if granted, shall be dissolved upon filing by the Bangko Sentral of a bond, which shall be in the form of cash, or Bangko Sentral cashier's check, in an amount twice the amount of the bond of the petitioner or plaintiff conditioned that it will pay the damages which the petitioner or plaintiff may suffer by the refusal or the dissolution of the injunction. The provisions of Rule 58 of the New Rules of Court insofar

as they are applicable and not inconsistent with the provisions of this Section shall govern the issuance and dissolution of the restraining order or injunction contemplated in this Section.

SEC. 25. Bank Deposits and Investments. - The Monetary Board may authorize the Bangko Sentral examiners to examine deposits of whatever nature with banks, as well as investments in debt instruments of the government, after it is satisfied that there is reasonable ground to believe that a bank fraud or serious irregularity has been or is being committed and that it is necessary to look into the deposit to establish such fraud and irregularity. Action taken in pursuance thereof shall be reported to the Monetary Board within seventy-two (72) hours from the completion of the examination.

All information obtained pursuant to the authority granted herein shall be held confidential and used by the examiners only in connection with their supervisory and examination responsibility, or by the Bangko Sentral in an appropriate legal action it has initiated involving the deposit account.

Any director, officer or stockholder who, together with his related interest, has an outstanding loan or any form of financial accommodation from: (1) his bank; or (2) from a bank (a) which is a subsidiary of a bank holding company of which both his bank and the lending bank are subsidiaries or (b) in which a controlling proportion of the shares are owned by the same interest that own a controlling proportion of the shares of his bank, in excess of five percent (5%) of the capital and surplus of the bank, or in the maximum amount permitted by law, whichever is lower, shall be deemed to have waived the secrecy of their deposits of whatever nature with banks in the Philippines: *Provided*, That the use of any information obtained thereby shall be subject to the conditions mentioned in the next preceding paragraph hereof.

SEC. 26. Prohibitions. - In addition to the prohibitions found in Republic Act Nos. 3019 and 6713, personnel of the Bangko Sentral are hereby prohibited from:

(a) Being an officer, director, employee, consultant or stockholder, directly or indirectly, of any institution subject to supervision or examination by the Bangko Sentral, except non-stock savings and loan associations and provident funds organized exclusively for employees of the Bangko Sentral, and except as otherwise provided in this Act;

(b) Directly or indirectly requesting or receiving any gift, present or pecuniary or material benefit for himself or another, from any banking institution which has pending official business with the personnel concerned, in consideration of any action or assistance given or to be given;

(c) Revealing in any manner, except under order of the court, or under such conditions as may be prescribed by the Monetary Board, information relating to the condition or business of any such institution. This prohibition shall not be held to apply to the giving of information to the Monetary

Board or the Governor of the Bangko Sentral, or to any person authorized by either of them, in writing, to receive such information.

Borrowing from any institution subject to supervision or examination by the Bangko Sentral by examiners and other personnel of the supervising and examining departments of the Bangko Sentral shall be prohibited only with respect to the particular institution in which they are assigned, or are conducting an examination: *Provided, however,* That any credit union or cooperative composed of personnel of the supervising and examining departments of the Bangko Sentral may borrow any time from such institution, subject to Monetary Board approval and provided that the loan is fully secured. Personnel of other departments, offices, or units of the Bangko Sentral shall likewise be prohibited from borrowing from any financial institution during the period of time that an application with the Bangko Sentral of such institution is being evaluated, processed, or acted upon by such personnel: *Provided, however,* That the Monetary Board may, at its discretion, indicate the position levels or functional groups to which the prohibition is applicable.

Borrowing by all full-time Bangko Sentral personnel from any institution subject to supervision or examination by the Bangko Sentral shall be fully secured, fully disclosed to the Monetary Board, and shall be subject to such further rules and regulations as the Monetary Board may prescribe.

SEC. 27. Examination and Fees. - The supervising and examining department head, personally or by deputy, shall examine the books of every banking institution at least once in a every twelve (12) months, and at such other times as either he or the Monetary Board may deem expedient and to make a report on the same to the Monetary Board.

The bank concerned shall afford to the head of the appropriate supervising and examining departments and to his authorized deputies full opportunity to examine its books, cash and available assets and general condition at any time when requested to do so by the Bangko Sentral: *Provided, however,* That none of the reports and other papers relative to such examinations shall be open to inspection by the public except insofar as such publicity is incidental to the proceedings hereinafter authorized or is necessary for the prosecution of violations in connection with the business of such institutions.

The institutions which are subject to examination by the Bangko Sentral shall reimburse the Bangko Sentral for the cost of maintaining the corresponding supervising and examining department and, for this purpose, shall pay to the Bangko Sentral, within the first thirty days of each year, an annual fee in an amount equal to a percentage as may be prescribed by the Monetary Board of its average total assets during the preceding year as shown on its end-of-month balance sheets, after deducting cash on hand and amounts due from banks, including the Bangko Sentral and banks abroad.

SEC. 28. Appointment of Conservator. - Whenever, on the basis of a report submitted by the appropriate supervising or examining department, the Monetary Board finds that a bank or a quasi-bank is in a state of continuing inability or unwillingness to maintain a condition of liquidity deemed adequate to protect the interest of depositors and creditors, the Monetary Board may appoint a conservator with such powers as the Monetary Board shall deem necessary to take charge of the assets, liabilities, and the management thereof, reorganize the management, collect all monies and debts due said institution, and exercise all powers necessary to restore its viability. The conservator shall report and be responsible to the Monetary Board and shall have the power to overrule or revoke the actions of the previous management and board of directors of the bank or quasi-bank.

The conservator should be competent and knowledgeable in bank operations and management. The conservatorship shall not exceed one year.

The conservator shall receive remuneration equal to what the president of the institution receives in one year, payable in twelve (12) equal monthly payments: *Provided,* That if at any time within the one year period, the conservatorship is terminated on the ground that the institution can operate on its own, the conservator shall receive the balance of the remuneration which he would have received up to the end of the year; but if the conservatorship is terminated on other grounds, the conservator shall not be entitled to such remaining balance. The Monetary Board may appoint a conservator connected with the Bangko Sentral, in which case he shall not be entitled to receive any remuneration or emolument from the Bangko Sentral, in which case he shall not be entitled to receive any remuneration or emolument from the Bangko Sentral during the conservatorship. The expenses attendant to the conservatorship shall be borne by the bank or quasi-bank concerned.

The Monetary Board shall terminate the conservatorship when it is satisfied that the institution can continue to operate on its own and the conservatorship is no longer necessary. The conservatorship shall likewise be terminated should the Monetary Board, on the basis of the report of the conservator or of its own findings, determine that the continuance in business of the institution would involve probable loss to its depositors or creditors, in which case the provisions of Section 29 shall apply.

SEC. 29. Proceedings in Receivership and Liquidation. - Whenever, upon report of the head of the supervising or examining department, the Monetary Board finds that a bank or quasi-bank:

(a) Is unable to pay its liabilities as they become due in the ordinary course of business; or

(b) Has insufficient realizable assets, as determined by the Bangko Sentral, to meet its liabilities; or

(c) Cannot continue in business without involving probable losses to its depositors or creditors; or

(d) Has willfully violated a cease-and-desist order under Section 35 that has become final, involving acts or transactions which amount to fraud or a dissipation of the assets of the institution, the Monetary Board shall summarily forbid the institution from doing business in the Philippines and designate the Philippine Deposit Insurance Corporation as receiver of the banking institution.

For a quasi-bank, any person of recognized competence in banking or finance may be designated as receiver.

The receiver shall immediately gather and take charge of all the assets and liabilities of the institution, administer the same for the benefit of its creditors, and exercise the general powers of a receiver under the Revised Rules of Court but shall not, with the exception of administrative expenditures, pay or commit any act that will involve the transfer or disposition of any asset of the institution: *Provided*, That the receiver may deposit or place the funds of the institution in non-speculative investments.

The receiver shall determine as soon as possible, but not later than sixty (60) days from take-over, whether the institution may be rehabilitated or otherwise placed in such a condition so that it may be permitted to resume business with safety to its depositors and creditors and the general public: *Provided*, That any determination for the resumption of business of the institution shall be subject to prior approval of the Monetary Board.

If the institution cannot be rehabilitated or permitted to resume business in accordance with the next preceding paragraph, the Monetary Board shall notify in writing the board of directors of its findings and direct the receiver to proceed with the liquidation of the institution. The receiver shall:

(1) File *ex-parte* with the proper regional trial court, and without requirement of prior notice or any other action, a petition for assistance in the liquidation of the institution pursuant to a liquidation plan adopted by the Philippine Deposit Insurance Corporation for general application to all closed banks. In case of quasi-banks, the liquidation plan shall be adopted by the Monetary Board. Upon acquiring jurisdiction, the court shall, upon motion by the receiver after due notice, adjudicate disputed claims against the institution, assist the enforcement of individual liabilities of the stockholders, directors and officers, and decide on other issues as may be material to implement the liquidation plan adopted. The receiver shall pay the cost of the proceedings from the assets of the institution.

(2) Convert the assets of the institution to money, dispose of the same to creditors and other parties, for the purpose of paying the debts of such institution in accordance

with the rules on concurrence and preference of credit under the New Civil Code and he may, in the name of the institution, and with the assistance of counsel as he may retain, institute such actions as may be necessary to collect and recover accounts and assets of, or defend any action against, the institution.

The assets of an institution under receivership or liquidation shall be deemed in *custodia legis* in the hands of the receiver and shall, from the moment the institution was placed under such receivership or liquidation, be exempt from any order of garnishment, levy, attachment, or execution.

The actions of the Monetary Board taken under this Section or under Section 28 of this Act shall be final and executory, and may not be restrained or set aside by the court except on petition for certiorari on the ground that the action taken was in excess of jurisdiction or with such grave abuse of discretion as to amount to lack or excess of jurisdiction. The petition for certiorari may only be filed by the stockholders of record representing the majority of the capital stock within ten (10) days from receipt by the board of directors of the institution of the order directing receivership, liquidation or conservatorship.

The designation of a conservator under Section 28 of this Act or the appointment of a receiver under this Section shall be vested exclusively with the Monetary Board. Furthermore, the designation of a conservator is not a precondition to the designation of a receiver.

SEC. 30. Distribution of Assets. - In case of liquidation of a bank or quasi-bank, after payment of the cost of proceedings, including reasonable expenses and fees of the receiver to be allowed by the court, the receiver shall pay the debts of such institution, under order of the Court, in accordance with the rules on concurrence and preference of credit as provided in the Civil Code.

SEC. 31. Disposition of Revenues and Earnings. - All revenues and earnings realized by the receiver in winding up the affairs and administering the assets of any bank or quasi-bank within the purview of this Act shall be used to pay the costs, fees and expenses mentioned in the preceding Section, salaries of such personnel whose employment is rendered necessary in the discharge of the liquidation, together with other additional expenses caused thereby. The balance of revenues and earnings, after the payment of all said expenses, shall form part of the assets available for payment to creditors.

SEC. 32. Refusal to Make Reports or Permit Examination. - Any officer, owner, agent, manager, director or officer-in-charge of any institution subject to the supervision or examination by the Bangko Sentral within the purview of this Act who, being required in writing by the Monetary Board or by the head of the supervising and examining department willfully refuses to file the required report or permit any lawful examination into the affairs of such institution shall be

punished by a fine of not less than Thirty thousand pesos (P30,000.00) nor more than One hundred thousand pesos (P100,000.00) or by imprisonment of not more than five years, or both, in the discretion of the court.

SEC. 33. False Statement. - The willful making of a false or misleading statement to the Monetary Board or to the examiners of the Bangko Sentral shall be punished by a fine of not less than Fifty thousand pesos (P50,000.00) nor more than Two hundred thousand pesos (P200,000.00), or by imprisonment of not more than five (5) years, or both, at the discretion of the court.

SEC. 34. Proceedings Upon Violation of this Act and Other Banking Laws, Rules, Regulations, Orders or Instructions. - Whenever a bank or quasi-bank, or whenever any person or entity willfully violates this Act or other pertinent banking laws being enforced or implemented by the Bangko Sentral or any order, instruction, rule or regulation issued by the Monetary Board, the person or persons responsible for such violation shall unless otherwise provided in this Act be punished by a fine of not less than Fifty thousand pesos (P50,000.00) nor more than Two hundred thousand pesos (P200,000.00) or by imprisonment of not more than ten (10) years, or both, at the discretion of the court.

Whenever a bank or quasi-bank persists in carrying on its business in an unlawful or unsafe manner, the Board may without prejudice to the penalties provided in the preceding paragraph of this Section and the administrative sanctions provided in Section 35 of this Act, take action under Section 29 of this Act.

SEC. 35. Administrative Sanctions on Banks and Quasi-banks. - Without prejudice to the criminal sanctions against the culpable persons provided in Sections 32, 33, and 34 of this Act, the Monetary Board may at its discretion, impose upon any bank or quasi-bank, their directors and/or officers, for any willful violation of its charter or by-laws, willful delay in the submission of reports or publications thereof as required by law, rules and regulations; any refusal to permit examination into the affairs of the institution; any willful making of a false or misleading statement to the Board or the appropriate supervising and examining department or its examiners; any willful failure or refusal to comply with, or violation of, any banking law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Monetary Board, the following administrative sanctions, whenever applicable.

(a) Fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed Thirty thousand pesos (P30,000.00) a day for each type of violation, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the bank or quasi-bank;

(b) Suspension, disqualification or removal of directors and/or officers;

(c) Suspension of rediscounting privileges or access to Bangko Sentral credit facilities;

(d) Suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;

(e) Suspension of interbank clearing privileges; and/or

(f) Revocation of quasi-banking license.

Resignation or termination from office shall not exempt such director or officer from administrative or criminal sanctions.

The Monetary Board may, whenever warranted by circumstances preventively suspend any director or officer of a bank or quasi-bank pending an investigation: *Provided*, That should the case be not finally decided by the Bangko Sentral within a period of ninety (90) days after the date of suspension, said director or officer shall be reinstated in his position: *Provided, further*, That when the delay in the disposition of the case is due to the fault, negligence or petition of the director or officer, the period of delay shall not be counted in computing the period of suspension herein provided.

The above administrative sanctions need not be applied in the order of their severity.

Whether or not there is an administrative proceeding, if the institution and/or the directors and/or officers concerned continue with or otherwise persist in the commission of the indicated practice or violation, the Monetary Board may issue an order requiring the institution and/or the directors and/or officers concerned to cease and desist from the indicated practice or violation, and may further order that immediate action be taken to correct the conditions resulting from such practice or violation. The cease and desist order shall be immediately effective upon service on the respondents.

The respondents shall be afforded an opportunity to defend their action in a hearing before the Monetary Board or any committee chaired by any Monetary Board member created for the purpose, upon request made by the respondents within five (5) days from their receipt of the order. If no such hearing is requested within said period, the order shall be final. If a hearing is conducted, all issues shall be determined on the basis of records, after which the Monetary Board may either reconsider or make final its order.

The Governor is hereby authorized, at his discretion, to impose upon banking institutions, for any failure to comply with the requirements of law, Monetary Board regulations and policies, and/or instructions issued by the Monetary Board or by the Governor, fines not in excess of Five thousand

pesos (P5,000.00) a day for each type of violation, the imposition of which shall be final and executory until reversed, modified or lifted by the Monetary Board on appeal.

C. OTHER DEPARTMENTS OF THE BANGKO SENTRAL

SEC. 36. *Operating Departments of the Bangko Sentral.*

- The Monetary Board shall, in accordance with its authority under this Act, determine and provide for such operating departments and other officers of the Bangko Sentral as it deems convenient for the proper and efficient conduct of the operations and the accomplishment of the objectives of the Bangko Sentral. The functions and duties of such operating departments and other officers shall be determined by the Monetary Board.

ARTICLE V — Reports and Publications

SEC. 37. *Reports and Publications.* - The Bangko Sentral shall publish a general balance sheet showing the volume and composition of its assets and liabilities as of the last working day of the month within sixty (60) days after the end of each month except for the month of December, which shall be submitted within ninety (90) days after the end thereof.

The Monetary Board shall publish and submit the following reports to the President and to Congress:

(a) Not later than ninety (90) days after the end of each quarter, an analysis of economic and financial developments, including the condition of not international reserves and monetary aggregates;

(b) Within ninety (90) days after the end of the year, the preceding year's budget and profit and loss statement of the Bangko Sentral showing in reasonable detail the result of its operations;

(c) One hundred twenty (120) days after the end of each semester, a review of the state of the financial system; and

(d) As soon as practicable, abnormal movements in monetary aggregates and the general price level, and, not later than seventy-two (72) hours after they are taken, remedial measures in response to such abnormal movements.

SEC. 38. *Annual Report.* - Before the end of March of each year, the Bangko Sentral shall submit to the President of the Philippines and the Congress, and shall publish an annual report on the condition of the Bangko Sentral and a review of the policies and measures adopted by the Monetary Board during the past year and an analysis of the economic and financial circumstances which gave rise to said policies and measures.

The annual report shall also include a statement of the financial condition of the Bangko Sentral and a statistical

appendix which shall present, as a minimum, the following data:

(a) The monthly movement of monetary aggregate and their components;

(b) The monthly movement of purchases and sales of foreign exchange and of the international reserves of the Bangko Sentral;

(c) The balance of payments of the Philippines;

(d) Monthly indices of consumer prices and of import and export prices;

(e) The monthly movement, in summary form, of exports and imports, by volume and value;

(f) The monthly movement of the accounts of the Bangko Sentral and of other banks;

(g) The principal data on government receipts and expenditures and on the status of the public debt, both domestic and foreign; and

(h) The texts of the major legal and administrative measures adopted by the government and Monetary Board during the year which relate to the functions or operations of the Bangko Sentral or of the financial system.

SEC. 39. *Signatures on Statements.* - The balance sheets and other financial statements of the Bangko Sentral shall be signed by the officers responsible for their preparation, by the Governor, and by the auditor of the Bangko Sentral.

ARTICLE VI — Profits, Losses, and Special Accounts

SEC. 40. *Fiscal Year.* - The fiscal year of the Bangko Sentral shall begin on January first and end on December thirty-first of each year.

SEC. 41. *Computation of Profits and Losses.* - Within the first thirty days following the end of each year, the Bangko Sentral shall determine its net profits or losses. In the calculation of net profits, the Bangko Sentral shall make adequate allowance or establish adequate reserves for bad and doubtful accounts.

SEC. 42. *Distribution of Net Profits.* - Within the first sixty days following the end of each fiscal year, the Monetary Board shall determine and carry out the distribution of the net profits, in accordance with the following rule:

Fifty percent (50%) of the net profits shall be carried to surplus and the remaining fifty percent (50%) shall revert to the National Treasury, except as otherwise provided in the transitory provisions of this Act.

SEC. 43. *Distribution of Net Losses.* — Should the Bangko Sentral incur net losses during any fiscal year, such

losses shall be debited to surplus, and if surplus be inadequate the Bangko Sentral shall request for budgetary allocation from Congress to cover such losses.

SEC. 44. *Revaluation Profits and Losses.* — Profits or losses arising from any revaluation of the Bangko Sentral's net assets or liabilities in gold or foreign currencies with respect to the Philippine peso shall not be included in the computation of the annual profits and losses of the Bangko Sentral. Any profits or losses arising in this manner shall be offset by any amounts which, as a consequence of such revaluations, are owed by the Philippines to any international or regional inter-governmental financial institution of which the Philippines is a member or are owed by these institutions to the Philippines. Any remaining profit or loss shall be carried in a special frozen account which shall be named "Revaluation of International Reserve" and the net balance of which shall appear either among the liabilities or among the assets of the Bangko Sentral, depending on whether the revaluations have produced net profits or net losses.

The Revaluation of International Reserve account shall be neither credited nor debited for any purposes other than those specifically authorized in this Section.

SEC. 45. *Suspense Accounts.* - Sections 43 and 43-A of Republic Act No. 265, as amended, creating the Monetary Adjustment Account (MAA) and the Exchange Stabilization Adjustment Account (ESAA), respectively, are hereby repealed. Amounts outstanding as of the effective date of this Act based on these accounts shall continue to be for the account of the Central Bank and shall be governed by the transitory provisions of this Act.

The Revaluation of International Reserve (RIR) account as of the effective date of this Act of the Central Bank shall continue to be for the account of the same entity and shall be governed by the provisions of Section 44 of Republic Act No. 265, as amended, until otherwise provided for in accordance with the transitory provisions of this Act.

ARTICLE VII. — The Auditor

SEC. 46. *Appointment and Personnel.* - The Chairman of the Commission on Audit shall act as the ex-officio Auditor of the Bangko Sentral and, as such he is empowered and authorized to appoint a representative who shall be the Auditor of the Bangko Sentral and, in accordance with law, fix his salary, and to appoint and fix the salaries and number of personnel to assist said representative in his work, but in all cases subject to the approval of the Monetary Board. The salaries and other emoluments shall be paid by the Commission. The Auditor of the Bangko Sentral and personnel under him may be removed only by the Chairman of the Commission.

The representative of the Chairman of the Commission must be a certified public accountant with at least ten years

experience as such. No relative of any member of the Monetary Board or the Chairman of the Commission within the sixth degree of consanguinity or affinity shall be appointed such representative.

CHAPTER II THE BANGKO SENTRAL AND THE MEANS OF PAYMENT

ARTICLE I. — The Unit of Monetary Value

SEC. 47. *The Peso.* - The unit of monetary value in the Philippines is the "peso," which is represented by the sign "P."

ARTICLE II — Issue of Means of Payment

A. CURRENCY

SEC. 48. *Definition of Currency.* - The word "currency" is hereby defined, for the purposes of this Act, as meaning all Philippine notes and coins issued or circulating in accordance with the provisions of this Act.

SEC. 49. *Exclusive Issue Power.* - The Bangko Sentral shall have the sole power and authority to issue currency, within the territory of the Philippines. No other person or entity, public or private, may put into circulation notes, coins or any other object or documents which, in the opinion of the Monetary Board, might circulate as currency, nor reproduce or imitate the facsimiles of Bangko Sentral notes without prior authority from the Bangko Sentral.

The Monetary Board may issue such regulations as it may deem advisable in order to prevent the circulation of foreign currency or of currency substitutes as well as to prevent the reproduction of facsimiles of Bangko Sentral notes.

The Bangko Sentral shall have the authority to investigate, make arrests, conduct searches and seizures in accordance with law, for the purpose of maintaining the integrity of the currency.

SEC. 50. *Liability for Notes and Coins.* - Notes and coins issued by the Bangko Sentral shall be liabilities of the Bangko Sentral and may be issued only against, and in amounts not exceeding, the assets of the Bangko Sentral. Said notes and coins shall be a first and paramount lien on all assets of the Bangko Sentral.

The Bangko Sentral's holdings of its own notes and coins shall not be considered as part of its currency issue and, accordingly, shall not form part of the assets or liabilities of the Bangko Sentral.

SEC. 51. *Legal Tender Power.* - All notes and coins issued by the Bangko Sentral shall be fully guaranteed by the

government of the Republic of the Philippines and shall be legal tender in the Philippines for all debts, both public and private: *Provided, however*, That, unless otherwise fixed by the Monetary Board, coins shall be legal tender in amounts not exceeding fifty pesos for denominations of twenty-five (25) centavos and above, and in amounts not exceeding twenty pesos for denominations of ten (10) centavos or less.

SEC. 52. Characteristics of the Currency. — The Monetary Board, with the approval of the President of the Philippines, shall prescribe the denominations, dimensions, designs, inscriptions and other characteristics of notes issued by the Bangko Sentral: *Provided, however*, That said notes shall state that they are liabilities of the Bangko Sentral and are fully guaranteed by the government of the Republic of the Philippines. Said notes shall bear the signatures, in facsimile, of the President of the Philippines and of the Governor of the Bangko Sentral.

Similarly, the Monetary Board, with the approval of the President of the Philippines, shall prescribe the weight, fineness, designs, denominations and other characteristics of the coins issued by the Bangko Sentral. In the minting of coins, the Monetary Board shall give full consideration to the availability of suitable metals and to their relative prices and cost of minting.

SEC. 53. Printing of Notes and Minting of Coins. - The Monetary Board shall prescribe the amounts of notes and coins to be printed and minted, respectively, and the conditions to which the printing of notes and the minting of coins shall be the subject. The Monetary Board shall have the authority to contract institutions, mints or firms for such operations.

All expenses incurred in the printing of notes and the minting of coins shall be for the account of the Bangko Sentral.

SEC. 54. Interconvertibility of Currency. - The Bangko Sentral shall exchange, on demand and without charge, Philippine currency of any denomination for Philippine notes and coins of any other denomination requested. If, for any reason the Bangko Sentral is temporarily unable to provide notes or coins of the denominations requested it shall meet its obligations by delivering notes and coins of the denominations which most nearly approximate those requested.

SEC. 55. Replacement of Currency Unfit for Circulation. - The Bangko Sentral shall withdraw from circulation and shall demonetize all notes and coins which for any reason whatsoever are unfit for circulation and shall replace them by adequate notes and coins: *Provided, however*, That the Bangko Sentral shall not replace notes and coins the identification of which is impossible, coins which show signs of filing, clipping or perforation, and notes which have lost more than two-fifths of their surface or all of the signatures inscribed thereon. Notes and coins in such mutilated condition shall be withdrawn from circulation and demonetized without compensation to the bearer.

SEC. 56. Retirement of Old Notes and Coins. - The Bangko Sentral may call in for replacement of notes of any series or denomination which are more than five (5) years old and coins which are more than ten (10) years old.

Notes and coins called in for replacement in accordance with this provision shall remain legal tender for a period of one year from the date of call. After this period, they shall cease to be legal tender but during the following year, or for such longer period as the Monetary Board may determine, they may be exchanged at par and without charge in the Bangko Sentral and by agents duly authorized by the Bangko Sentral for this purpose. After the expiration of this latter period, the notes and coins which have not been exchanged shall cease to be a liability of the Bangko Sentral and shall be demonetized. The Bangko Sentral shall also demonetize all notes and coins which have been called in and replaced.

B. DEMAND DEPOSITS

SEC. 57. Definition. - For the purposes of this Act, the term "demand deposits" means all those liabilities of the Bangko Sentral and of other banks which are denominated in Philippine currency and are subject to payment in legal tender upon demand by the presentation of checks.

SEC. 58. Issue of Demand Deposits. - Only banks duly authorized to do so may accept funds or create liabilities payable in pesos upon demand by the presentation of checks, and such operations shall be subject to the control of the Monetary Board in accordance with the powers granted it with respect thereto under this Act.

SEC. 59. Legal Character. - Checks representing demand deposits do not have legal tender power and their acceptance in the payment of debts, both public and private, is at the option of the creditor: *Provided, however*, That a check which has been cleared and credited to the account of the creditor shall be equivalent to a delivery to the creditor of cash in an amount equal to the amount credited to his account.

CHAPTER III GUIDING PRINCIPLES OF MONETARY ADMINISTRATION BY THE BANGKO SENTRAL

ARTICLE I. — Domestic Monetary Stabilization

SEC. 60. Guiding Principle. - The Monetary Board shall endeavor to control any expansion or contraction in monetary aggregates which is prejudicial to the attainment or maintenance of price stability.

SEC. 61. Power to Define Terms. - For purposes of this Article and of this Act, the Monetary Board shall formulate definitions of monetary aggregates, credit and prices and shall make public such definitions and any changes thereof.

ARTICLE II. — International Reserves

SEC. 62. *International Reserves.* - In order to maintain the international stability and convertibility of the Philippine peso, the Bangko Sentral shall maintain international reserves adequate to meet any foreseeable net demands on the Bangko Sentral for foreign currencies.

In judging the adequacy of the international reserves, the Monetary Board shall be guided by the prospective receipts and payments of foreign exchange by the Philippines. The Board shall give special attention to the volume and maturity of the Bangko Sentral's own liabilities in foreign currencies, to the volume and maturity of the foreign exchange assets and liabilities of other banks operating in the Philippines and, insofar as they are known or can be estimated, the volume and maturity of the foreign exchange assets and liabilities of all other persons and entities in the Philippines.

SEC. 63. *Composition of the International Reserves.* - The international reserves of the Bangko Sentral may include but shall not be limited to the following assets:

(a) Gold; and

(b) Assets in foreign currencies in the form of: documents and instruments customarily employed for the international transfer of funds; demand and time deposits in central banks, treasuries and commercial banks abroad; foreign government securities; and foreign notes and coins.

The Monetary Board shall endeavor to hold the foreign exchange resources of the Bangko Sentral in freely convertible currencies; moreover, the Board shall give particular consideration to the prospects of continued strength and convertibility of the currencies in which the reserve is maintained, as well as to the anticipated demands for such currencies. The Monetary Board shall issue regulations determining the other qualifications which foreign exchange assets must meet in order to be included in the international reserves of the Bangko Sentral.

The Bangko Sentral shall be free to convert any of the assets in its international reserves into other assets as described in subsections (a) and (b) of this Section.

CHAPTER IV INSTRUMENTS OF BANGKO SENTRAL ACTION

ARTICLE I. — General Criterion

SEC. 64. *Means of Action.* - In order to achieve the primary objective of price stability, the Monetary Board shall rely on its moral influence and the powers granted to it under this Act for the management of monetary aggregates.

ARTICLE II. — Operations in Gold and Foreign Exchange

SEC. 65. *Purchases and Sales of Gold.* - The Bangko Sentral may buy and sell gold in any form, subject to such regulations as the Monetary Board may issue.

The purchases and sales of gold authorized by this Section shall be made in the national currency at the prevailing international market price as determined by the Monetary Board.

SEC. 66. *Purchases and Sales of Foreign Exchange.* - The Bangko Sentral may buy and sell foreign notes and coins, and documents and instruments of types customarily employed for the international transfer of funds. The Bangko Sentral may engage in future exchange operations.

The Bangko Sentral may engage in foreign exchange transactions with the following entities or persons only:

(a) Banking institutions operating in the Philippines;

(b) The government, its political subdivisions and instrumentalities;

(c) Foreign or international financial institutions;

(d) Foreign governments and their instrumentalities; and

(e) Other entities or persons which the Monetary Board is hereby empowered to authorize as foreign exchange dealers, subject to such rules and regulations as the Monetary Board shall prescribe.

In order to maintain the convertibility of the peso, the Bangko Sentral may, at the request of any banking institution operating in the Philippines, buy any quantity of foreign exchange offered, and sell any quantity of foreign exchange demand, by such institution, provided that the foreign currencies so offered or demanded are freely convertible into gold or United States dollars. This requirement shall not apply to demands for foreign notes and coins.

The Bangko Sentral shall effect its exchange transactions between foreign currencies and the Philippine peso at the rates determined in accordance with the provisions of Section 69.

SEC. 67. *Emergency Restrictions on Exchange Operations.* - In order to achieve the primary objective of the Bangko Sentral as set forth in Section 2 of this Act, or protect the international reserves of the Bangko Sentral in the imminence of, or during an exchange crisis, or in time of national emergency and to give the Monetary Board and the government time in which to take constructive measures to forestall, combat, or overcome such a crisis or emergency, the Monetary Board, with the concurrence of at least five (5) of its members and with the approval of the President of the Philippines, may temporarily suspend or restrict sales of exchange by the Bangko Sentral, and may subject all transactions in gold and foreign exchange to license by the Bangko Sentral, and may require that any foreign exchange thereafter obtained by any person residing or entity operating in the Philippines be delivered to the Bangko Sentral or to

any bank or agent designated by the Bangko Sentral for the purpose, at the effective exchange rate or rates: *Provided, however,* That foreign currency deposits made under Republic Act No. 6426 shall be exempt from these requirements.

SEC. 68. Acquisition of Inconvertible Currencies. - The Bangko Sentral shall avoid the acquisition and holding of currencies which are not freely convertible, and may acquire such currencies in an amount exceeding the minimum balance necessary to cover current demands for said currencies only when, and to the extent that, such acquisition is considered by the Monetary Board to be in the national interest. The Monetary Board shall determine the procedures which shall apply to the acquisition and disposition by the Bangko Sentral of foreign exchange which is not freely utilizable in the international market.

SEC. 69. Exchange Rates. - The Monetary Board shall determine the exchange rate policy of the country.

The Monetary Board shall determine the rates at which the Bangko Sentral shall buy and sell spot exchange, and shall establish deviation limits from the effective exchange rate or rates as it may deem proper. The Bangko Sentral shall not collect any additional commissions or charges of any sort, other than actual telegraphic or cable costs incurred by it.

The Monetary Board shall similarly determine the rates for other types of foreign exchange transactions by the Bangko Sentral, including purchases and sales of foreign notes and coins, but the margins between the effective exchange rates and the rates thus established may not exceed the corresponding margins for spot exchange transactions by more than the additional costs or expenses involved in each type of transactions.

SEC. 70. Operations with Foreign Entities. - The Monetary Board may authorize the Bangko Sentral to grant loans to and receive loans from foreign banks and other foreign or international entities, both public and private, and may engage in such other operations with these entities as are in the national interest and are appropriate to its character as a central bank. The Bangko Sentral may also act as agent or correspondent for such entities.

Upon authority of the Monetary Board, the Bangko Sentral may pledge any gold or other assets which it possesses as security against loans which it receives from foreign or international entities.

ARTICLE III. — Regulation of Foreign Exchange Operations of the Banks

SEC. 71. Foreign Exchange Holdings of the Banks. - In order that the Bangko Sentral may at all times have foreign exchange resources sufficient to enable it to maintain the international stability and convertibility of the peso, or in

order to promote the domestic investment of bank resources, the Monetary Board may require the banks to sell to the Bangko Sentral or to other banks all or part of their surplus holdings of foreign exchange. Such transfers may be required for all foreign currencies or for only certain of such currencies, according to the decision of the Monetary Board. The transfers shall be made at the rates established under the provisions of Section 69 of this Act.

The Monetary Board, whenever warranted, determine the net assets and net liabilities of banks and shall, in making such a determination, take into account the bank's net worth, outstanding liabilities, actual and contingent, or such other financial or performance ratios as may be appropriate under the circumstances. Any such determination of net assets and net liabilities shall be applied to all banks uniformly and without discrimination.

SEC. 72. Requirement of Balanced Currency Position. - The Monetary Board may require the banks to maintain a balanced position between their assets and liabilities in Philippine pesos or in any other currency or currencies in which they operate. The banks shall be granted a reasonable period of time in which to adjust their currency positions to any such requirement.

The powers granted under this Section shall be exercised only when special circumstances make such action necessary, in the opinion of the Monetary Board, and shall be applied to all banks alike and without discrimination.

SEC. 73. Regulation of Non-spot Exchange Transactions. - In order to restrain the banks from taking speculative positions with respect to future fluctuations in foreign exchange rates, the Monetary Board may issue such regulations governing bank purchases and sales of non-spot exchange as it may consider necessary for said purpose.

SEC. 74. Other Exchange Profits and Losses. - The banks shall bear the risks of noncompliance with the terms of the foreign exchange documents and instruments which they buy or sell, and shall also bear any other typically commercial or banking risks, including exchange risks not assumed by the Bangko Sentral under the provisions of the preceding Section.

SEC. 75. Information on Exchange Operations. - The banks shall report to the Bangko Sentral the volume and composition of their purchases and sales of gold and foreign exchange each day, and must furnish such additional information as the Bangko Sentral may request with reference to the movements in their accounts in foreign currencies.

The Monetary Board may also require other persons and entities to report currently all transactions or operations in gold, in any shape or form, and in foreign exchange whether entered into or undertaken by them directly or through agents, or to submit such data as may be required on operations or

activities giving rise to or in connection with or relating to a gold or foreign exchange transaction. The Monetary Board shall prescribe the forms on which such declarations must be made. The accuracy of the declarations may be verified by the Bangko Sentral by whatever inspection it may deem necessary.

ARTICLE IV. — Loans to Banking and Other Financial Institution

A. CREDIT POLICY

SEC. 76. Guiding Principles. - The rediscounts, discounts, loans and advances which the Bangko Sentral is authorized to extend to banking institutions under the provisions of the present article of this Act shall be used to influence the volume of credit consistent with the objective of price stability.

B. NORMAL CREDIT OPERATIONS

SEC. 77. Authorized Types of Operations. - Subject to the principle stated in the preceding Section of this Act, the Bangko Sentral may normally and regularly carry on the following credit operations with banking institutions operating in the Philippines.

(a) **Commercial Credits.** - The Bangko Sentral may rediscount, discount, buy and sell bills, acceptances, promissory notes and other credit instruments with maturities of not more than 180 days from the date of their rediscount, discount or acquisition by the Bangko Sentral and resulting from transactions related to:

- (1) The importation, exportation, purchase or sale of readily saleable goods and products, or their transportation within the Philippines; or
- (2) The storing of nonperishable goods and products which are duly insured and deposited, under conditions assuring their preservation, in authorized bonded warehouses or in other places approved by the Monetary Board.

(b) **Production Credits.** - The Bangko Sentral may rediscount, discount, buy and sell bills, acceptances, promissory notes and other credit instruments having maturities of not more than 360 days from the date of their rediscount, discount or acquisition by the Bangko Sentral and resulting from transactions related to the production or processing of agricultural, animal, mineral, or industrial products. Documents or instruments acquired in accordance with this subsection shall be secured by a pledge of the respective crops or products: *Provided, however,* That the crops or products need not be pledged to secure the documents if the original loan granted by the Bangko Sentral is secured by a lien or mortgage on real estate property seventy percent (70%) of the appraised value of which equals or exceeds the amount of the loan granted.

(c) **Other Credits.** - Special credit instruments not otherwise rediscountable under the immediate preceding subsections (a) and (b), may be eligible for rediscounting in accordance with rules and regulations which the Bangko Sentral shall prescribe. Whenever necessary, the Bangko Sentral shall provide funds from non-inflationary sources: *Provided, however,* That the Monetary Board shall prescribe additional safeguards for disbursing these funds.

(d) **Advances.** - The Bangko Sentral may grant advances against the following kinds of collaterals for fixed periods which, with the exception of advances against the collateral named in clause (4) of the present subsection, shall not exceed 180 days:

- (1) Gold coins or bullion;
- (2) Securities representing obligations of the Bangko Sentral or of other domestic credit institutions of recognized solvency;
- (3) The credit instruments to which reference is made in subsection (a) of this Section;
- (4) The credit instrument to which reference is made in subsection (b) of this Section, for periods which shall not exceed 360 days;
- (5) Utilized portions of advances in current account covered by regular overdraft agreements related to operations included under subsections (a) and (b) of this Section, and certified as to amount and liquidity by the institution soliciting the advance;
- (6) Negotiable treasury bills, certificates of indebtedness, notes and other negotiable obligations of the government maturing within three years from the date of the advance; and
- (7) Negotiable bonds issued by the government of the Philippines, by Philippine provincial, city or municipal governments, or by any Philippine Government instrumentality, and having maturities of not more than ten years from the date of the advance.

The rediscounts, discounts, loans and advances made in accordance with the provisions of this Section may not be renewed or extended unless extraordinary circumstances fully justify such renewal or extension.

Advances made against the collateral name in clauses (6) and (7) of subsection (d) of this Section may not exceed 80 percent of the current market value of the collateral.

C. SPECIAL CREDIT OPERATION

SEC. 78. Loans for Liquidity Purposes. - The Bangko Sentral may extend loans and advances to banking institutions for a period of not more than seven (7) days without any

collateral for the purpose of providing liquidity to the banking system in times of need.

D. EMERGENCY CREDIT OPERATION

SEC. 79. *Emergency Loans and Advances.* - In periods of national and/or local emergency or of imminent financial panic which directly threaten monetary and banking stability, the Monetary Board may, by a vote of at least five (5) of its members, authorize the Bangko Sentral to grant extraordinary loans or advances to banking institutions secured by assets as defined hereunder; *Provided*, That while such loans or advances are outstanding, the debtor institution shall not, except upon prior authorization by the Monetary Board expand the total volume of its loans or investments.

The Monetary Board may, at its discretion, likewise authorize the Bangko Sentral to grant emergency loans or advances to banking institutions, even during normal periods, for the purpose of assisting a bank in a precarious financial condition or under serious financial pressures brought by unforeseen events, or events which, though foreseeable, could not be prevented by the bank concerned; *Provided, however*, That the Monetary Board has ascertained that the bank is not insolvent and has the assets defined hereunder to secure the advances; *Provided, further*, That a concurrent vote of at least five (5) members of the Monetary Board is obtained.

The amount of any emergency loan or advance shall not exceed the sum of fifty percent (50%) of total deposits and deposit substitutes of the banking institution and shall be disbursed in two (2) or more tranches. The amount of the first tranche shall be limited to twenty-five percent (25%) of the total deposit and deposit substitutes of the institution and shall be secured by government securities to the extent of their applicable loan values and other unencumbered first class collaterals which the Monetary Board may approve; *Provided*, That, if as determined by the Monetary Board, the circumstances surrounding the emergency warrant a loan or advance greater than the amount provided hereinabove, the amount of the first tranche may exceed twenty-five (25%) of the bank's total deposit and deposit substitutes if the same is adequately secured by applicable loan values of government securities and unencumbered first class collaterals approved by the Monetary Board, and the principal stockholders of the institution furnish an acceptable undertaking to indemnify and hold harmless from suit a conservator whose appointment the Monetary Board may find necessary at any time.

Prior to the release of the first tranche, the banking institution shall submit to the Bangko Sentral a resolution of its board of directors authorizing the Bangko Sentral to evaluate other assets of the banking institution certified by its external auditor to be good and available for collateral purposes should the release of the subsequent tranche be thereafter applied for.

The Monetary Board may, by a vote of at least five (5) of its members, authorize the release of a subsequent tranche on condition that the principal stockholders of the institution:

(a) Furnish an acceptable undertaking to indemnify and hold harmless from suit a conservator whose appointment the Monetary Board may find necessary at any time; and

(b) Provide acceptable security which, in the judgment of the Monetary Board, would be adequate to supplement, where necessary, the assets tendered by the banking institution to collateralize the subsequent tranche.

In connection with the exercise of these powers, the prohibitions in Section 123 of this Act shall not apply insofar as it refers to acceptance as collateral of shares and their acquisition as a result of foreclosure proceedings, including the exercise of voting rights pertaining to said shares; *Provided, however*, That should the Bangko Sentral acquire any of the shares it has accepted as collateral as a result of foreclosure proceedings, the Bangko Sentral shall dispose of said shares by public bidding within one (1) year from the date of consolidation of title by the Bangko Sentral.

Whenever a financial institution incurs an overdraft in its account with the Bangko Sentral, the same shall be eliminated within the period prescribed in Section 97.

E. CREDIT TERMS

SEC. 80. *Interest and Rediscount Rates.* - The Bangko Sentral shall collect interest and other appropriate charges on all loans and advances it extends, the closure, receivership or liquidation of the debtor-institution notwithstanding. This provision shall apply prospectively.

The Monetary Board shall fix the interest and rediscount rates to be charged by the Bangko Sentral on its credit operations in accordance with the character and term of the operation, but after due consideration has been given to the credit needs of the market, the composition of the Bangko Sentral's portfolio, and the general requirements of the national monetary policy. Interest and rediscount rates shall be applied to all banks of the same category uniformly and without discrimination.

SEC. 81. *Endorsement.* - The documents rediscounted, discounted, bought or accepted as collateral by the Bangko Sentral in the course of the credit operations authorized in this article shall bear the endorsement of the institution from which they are received.

SEC. 82. *Repayment of Credits.* - Documents rediscounted, discounted or accepted as collateral by the Bangko Sentral must be withdrawn by the borrowing institution on the dates of their maturities, or upon liquidation of the obligations which they represent or to which they relate whenever said obligations have been liquidated prior to their dates of maturity.

Banks shall have the right at any time to withdraw any documents which they have presented to the Bangko Sentral as collateral, upon payment in full of the corresponding debt to the Bangko Sentral, including interest charges.

SEC. 83. Other Requirements. - The Monetary Board may prescribe, within the general powers granted to it under this Act, additional conditions which borrowing institutions must satisfy in order to have access to the credit of the Bangko Sentral. These conditions may refer to the rates of interest charged by the banks, to the purposes for which their loans in general are destined, and to any other clearly definable aspect of the credit policy of the bank.

SEC. 84. Provisional Advances to the National Government. - The Bangko Sentral may make direct provisional advances to the National Government to finance expenditures authorized in its annual appropriation: *Provided*, That said advances shall be repaid before the end of three (3) months following the date the National Government received such provisional advances and shall not, in their aggregate, exceed twenty percent (20%) of the average annual income of the borrower for the last three preceding fiscal years.

ARTICLE V. — Open Market Operations for the Account of the Bangko Sentral

SEC. 85. Principles of Open Market Operations. - The open market purchases and sales of securities by the Bangko Sentral shall be made exclusively in accordance with its primary objective of achieving price stability.

SEC. 86. Purchases and Sales of Government Securities. - In order to achieve the objectives of the national monetary policy, the Bangko Sentral may, in accordance with the principle stated in Section 85 of this Act and with such rules and regulations as may be prescribed by the Monetary Board, buy and sell in the open market for its own account:

(a) Evidences of indebtedness issued directly by the government of the Philippines or by its political subdivisions; and

(b) Evidences of indebtedness issued by government instrumentalities and fully guaranteed by the government.

The evidences of indebtedness acquired under the provisions of this Section must be freely negotiable and regularly serviced.

SEC. 87. Issue and Negotiation of Bangko Sentral Obligations. - In order to provide the Bangko Sentral with effective instruments for open market operations, the Bangko Sentral may, subject to such rules and regulations as the Monetary Board may prescribe and in accordance with the principles stated in Section 85 of this Act, issue, place, buy and sell freely negotiable evidences of indebtedness of the Bangko Sentral. Said evidences of indebtedness may be issued directly against the international reserve of the Bangko Sentral or against the securities which it has acquired under the provisions of Section 86 of this Act, or may be issued without relation to specific types of assets of the Bangko Sentral.

The Monetary Board shall determine the interest rates, maturities and other characteristics of said obligations of the Bangko Sentral, and may, if it deems advisable, denominate the obligations in gold or foreign currencies.

Subject to the principles stated in Section 86 of this Act, the evidences of indebtedness of the Bangko Sentral to which this Section refers may be acquired by the Bangko Sentral before their maturity, either through purchases in the open market or through redemptions at par and by lot if the Bangko Sentral has reserved the right to make such redemptions. The evidences of indebtedness acquired or redeemed by the Bangko Sentral shall not be included among its assets, and shall be immediately retired and canceled.

ARTICLE VI. — Composition of Bangko Sentral's Portfolio

SEC. 88. Review of the Bangko Sentral's Portfolio. - At least once every month the Monetary Board shall review the portfolio of the Bangko Sentral in relation to its future credit policy.

In reviewing the Bangko Sentral's portfolio, the Monetary Board shall especially consider whether a sufficiently large part of the portfolio consists of assets with early maturities, in order that a contraction in Bangko Sentral credit may be effected promptly whenever the national monetary policy so requires.

ARTICLE VII. — Bank Reserves

SEC. 89. Reserve Requirements. - In order to control the volume of money created by the credit operations of the banking system, all banks operating in the Philippines shall be required to maintain reserves against their deposit liabilities: *Provided*, That the Monetary Board may, at its discretion, also require banks and/or quasi-banks to maintain reserves against their liabilities for deposit substitutes as defined in this Act. The required reserves of each bank shall be proportional, to the volume of its deposit liabilities and shall ordinarily take the form of a deposit in the Bangko Sentral except when the Monetary Board as circumstances warrant, permits, such reserves to be in the form of other assets. Reserve requirements shall be applied to all banks of the same category uniformly and without discrimination.

Reserves against deposit substitutes, if imposed, shall be determined in the same manner as provided for reserve requirements against regular bank deposits, with respect to the imposition, increase, and computation of reserves.

The Monetary Board may exempt from reserve requirements deposits and deposit substitutes with remaining maturities of two years or more, as well as interbank borrowings.

Since the requirement to maintain bank reserves is imposed primarily to control the volume of money, the Bangko

Sentral shall not pay interest on the reserves maintained with it unless the Monetary Board decides otherwise as warranted by circumstances.

SEC. 90. Definitions of Deposit Substitute. - The term "deposit substitutes" is defined as an alternative form of obtaining funds from the public, other than deposits, through the issuance, endorsement, or acceptance of debt instruments for the borrower's own account, for the purpose of relending or purchasing of receivables and other obligations. These instruments may include, but need not be limited to, bankers acceptances, promissory notes, participations, certificates of assignment and similar instruments with recourse, trust certificates and repurchase agreements. The Monetary Board shall determine what specific instruments shall be considered as deposit substitutes for the purposes of Sections 89 and 100: *Provided, however,* That deposit substitutes of commercial, industrial and other nonfinancial companies issued for the limited purpose of financing their own needs or the needs of their agents or dealers shall not be covered by the provisions of Sections 89 and 100.

SEC. 91. Required Reserves Against Peso Deposits. - The Monetary Board may fix and, when it deems necessary, alter the minimum reserve ratios to peso deposits, as well as to deposit substitutes, which each bank and/or quasi-bank may maintain, and such ratio shall be applied uniformly to all banks of the same category as well as to quasi-banks.

SEC. 92. Required Reserves Against Foreign Currency Deposits. - The Monetary Board is similarly authorized to prescribe and modify the the minimum reserve ratios applicable to deposits denominated in foreign currencies.

SEC. 93. Reserves Against Unused Balances of Overdraft Lines. - In order to facilitate Bangko Sentral control over the volume of bank credit, the Monetary Board may establish minimum reserve requirements for unused balances of overdraft lines.

The powers of the Monetary Board to prescribe and modify reserve requirements against unused balances of overdraft lines shall be the same as its powers with respect to reserve requirements against demand deposits.

SEC. 94. Increase in Reserve Requirements. - Whenever in the opinion of the Monetary Board, it becomes necessary to increase reserve requirements against existing liabilities, the increase shall be made in a gradual manner and shall not exceed four percentage points in any thirty-day period. Banks and other affected financial institutions shall be notified reasonably in advance of the date on which such increase is to become effective.

SEC. 95. Computation on Reserves. - The reserve position of each bank or quasi-bank shall be calculated daily on the basis of the amount, at the close of business for the day, of the institution's reserves and the amount of its liability accounts

against which reserves are required to be maintained: *Provided,* That with reference to holidays or nonbanking days, the reserve position as calculated at the close of the business day immediately preceding such holidays and non-banking days shall apply on such days.

For the purpose of computing the reserve position of each bank or quasi-bank, its principal office in the Philippines and all its branches and agencies located therein shall be considered as a single unit.

SEC. 96. Reserve Deficiencies. - Whenever the reserve position of any bank or quasi-bank, computed in the manner specified in the preceding Section of this Act, is below the required minimum, the bank or quasi-bank shall pay the Bangko Sentral one-tenth of one percent (1/10 of 1%) per day on the amount of the deficiency or the prevailing 91-day treasury bill rate plus three percentage points, whichever is higher: *Provided, however,* That banks and quasi-banks shall ordinarily be permitted to offset any reserve deficiency occurring on one or more days of the week with any excess reserves which they may hold on other days of the same week and shall be required to pay the penalty only on the average daily deficiency during the week. In cases of abuse, the Monetary Board may deny any bank or quasi-bank the privilege of offsetting reserve deficiencies in the aforesaid manner.

If a bank or quasi-bank chronically has a reserve deficiency, the Monetary Board may limit or prohibit the making of new loans or investments by the institution and may require that part or all of the net profits of the institution be assigned to surplus.

The Monetary Board may modify or set aside the reserve deficiency penalties provided in this Section, for part or the entire period of a strike or lockout affecting a bank or a quasi-bank as defined in the Labor Code, or of a national emergency affecting operations of banks or quasi-banks.

SEC. 97. Interbank Settlement. - The Bangko Sentral shall establish facilities for interbank clearing under such rules and regulations as the Monetary Board may prescribe: *Provided,* That the Bangko Sentral may charge administrative and other fees for the maintenance of such facilities.

The deposit reserves maintained by the banks in the Bangko Sentral in accordance with the provisions of Section 89 of this Act shall serve as basis for the clearing of checks and the settlement of interbank balances, subject to such rules and regulations as the Monetary Board may issue with respect to such operations: *Provided,* That any bank which incurs on overdrawing in its deposit account with the Bangko Sentral shall fully cover said overdraft, including interest thereon at a rate equivalent to one-tenth of one percent (1/10 of 1%) per day or the prevailing 91-day treasury bill rate plus three percentage points, whichever is higher, not later than the next clearing day: *Provided, further,* That settlement of

clearing balances shall not be effected for any account which continue to be overdrawn for five (5) consecutive banking days until such time as the overdrawn is fully covered or otherwise converted into an emergency loan or advance pursuant to the provisions of Section 79 of this Act; *Provided, finally*, That the appropriate clearing office shall be officially notified of banks with overdrawn balances. Banks with existing overdrafts with the Bangko Sentral as of the effectivity of this Act shall, within such period as may be prescribed by the Monetary Board, either convert the overdraft into an emergency loan or advance with a plan of payment, or settle such overdrafts, and that, upon failure to so comply herewith, the Bangko Sentral shall take such action against the bank as may be warranted under this Act.

SEC. 98. *Exemption from Attachment and Other Purposes.* - Deposits maintained by banks with the Bangko Sentral as part of their reserve requirements shall be exempt from attachment, garnishment, or any other order or process of any court, government agency or any other administrative body issued to satisfy the claim of a party other than the government, or its political subdivisions or instrumentalities.

ARTICLE VIII. — SELECTIVE REGULATION OF BANK OPERATIONS

SEC. 99. *Guiding Principle.* - The Monetary Board shall use the powers granted to it under this Act to ensure that the supply, availability and cost of money are in accord with the needs of the Philippine economy and that bank credit is not granted for speculative purposes prejudicial to the national interests. Regulations on bank operations shall be applied to all banks of the same category uniformly and without discrimination.

SEC. 100. *Interest Rates, Commissions and Charges.* - The Monetary Board may prescribe the rates of interest which banks may pay on deposits, on deposit substitutes and on other forms of indebtedness. The Monetary Board may also prescribe the rate that banks may pay to or collect from their customers in the form of commissions, discounts, charges, fees or payments of any sort.

SEC. 101. *Margin Requirements Against Letters of Credit.* - The Monetary Board may at any time prescribe minimum cash margins for the opening of letters of credit, and may relate the size of the required margin to the nature of the transaction to be financed.

SEC. 102. *Required Security Against Bank Loans.* - In order to promote liquidity and solvency of the banking system, the Monetary Board may issue such regulations as it may deem necessary with respect to the maximum permissible maturities of the loans and investments which the banks may make, and the kind and amount of security to be required against the various types of credit operations of the banks.

SEC. 103. *Portfolio Ceilings.* - Whenever the Monetary Board considers it advisable to prevent or check an expansion

of bank credit, the Board may place an upper limit on the amount of loans and investments which the banks may hold, or may place a limit on the rate of increase of such assets within specified periods of time. The Monetary Board may apply such limits to the loans and investments of each bank or to specific categories thereof.

In no case shall the Monetary Board establish limits which are below the value of the loans or investments of the banks on the date on which they are notified of such restrictions. The restrictions shall be applied to all banks uniformly and without discrimination.

SEC. 104. *Minimum Capital Ratios.* - The Monetary Board may prescribe minimum ratios which the capital and surplus of the banks must bear to the volume of their assets, or to specific categories thereof, and may alter said ratios whenever it deems necessary.

CHAPTER V FUNCTIONS AS BANKER AND FINANCIAL ADVISOR OF THE GOVERNMENT

ARTICLE I. — Functions as Banker of the Government

SEC. 105. *Designation of Bangko Sentral as Banker of the Government.* - The Bangko Sentral shall act as the banker of the government, its political subdivisions and instrumentalities.

SEC. 106. *Representation with the International Monetary Fund.* - The Bangko Sentral shall represent the government in all dealings, negotiations and transaction with the International Monetary Fund and shall carry such accounts as may result from Philippine membership in, or operations with, said Fund.

SEC. 107. *Representation with Other Financial Institutions.* - The Bangko Sentral may be authorized by the government to represent it in dealings, negotiations or transactions with the International Bank for Reconstruction and Development and with other foreign or international financial institutions or agencies. The President of the Philippines may, however, designate any of his other financial advisors to jointly represent the government in such dealings, negotiations or transactions.

SEC. 108. *Official Deposits.* - The Bangko Sentral shall be the official depository of the government, its political subdivisions and instrumentalities as well as of government-owned or -controlled corporations and, as a general policy, their cash balances should be deposited with the Bangko Sentral, with only minimum working balances to be held by government-owned banks and such other banks incorporated in the Philippines as the Monetary Board may designate, subject to such rules and regulations as the Board may prescribe.

The Bangko Sentral may pay interest on deposits of the government or of its political subdivisions and instrumen-

talities, as well as on deposits of banks with the Bangko Sentral.

SEC. 109. *Fiscal Operations.* - The Bangko Sentral shall open a general cash account for the Treasurer of the Philippines, in which the liquid funds of the government shall be deposited.

Transfer of funds from this account to other accounts shall be made only upon order of the Treasurer of the Philippines.

SEC. 110. *Other Banks as Agents of the Bangko Sentral.* - In the performance of its functions as fiscal agent, the Bangko Sentral may engage the services of other government-owned and -controlled banks and of other domestic banks for operations in localities at home or abroad in which the Bangko Sentral does not have offices or agencies adequately equipped to perform said operations: *Provided, however,* That for fiscal operations in foreign countries, the Bangko Sentral may engage the services of foreign banking and financial institutions.

SEC. 111. *Remuneration for Services.* - The Bangko Sentral may charge equitable rates, commissions or fees for services which it renders to the government, its political subdivisions and instrumentalities.

ARTICLE II. — The Marketing and Stabilization of Securities for the Account of the Government

A. THE ISSUE AND PLACING OF GOVERNMENT SECURITIES

SEC. 112. *Issue of Government Obligations.* - The issue of securities representing obligations of the government, its political subdivisions or instrumentalities, shall be made through the Bangko Sentral, which shall act as agent of, and for the account of, the government or its respective subdivisions or instrumentality, as the case may be: *Provided, however,* That the Bangko Sentral shall not guarantee the placement of said securities, and shall not subscribe to their issue except to replace its maturing holdings of securities with the same type as the maturing securities.

SEC. 113. *Methods of Placing Government Securities.* - The Bangko Sentral may place the securities to which the preceding Section refers through direct sale to financial institutions and the public, through outright sale to syndicates, brokers or dealers or purposes of resale to the public for their own account, or through brokers or banks contracted to place the securities with the public for the account of the Bangko Sentral.

The Bangko Sentral shall not be a member of any stock exchange or syndicate, but may intervene therein for the sole purpose of regulating their operations in the placing of government securities.

The government, or its political subdivisions or instrumentalities, shall reimburse the Bangko Sentral for the expenses incurred in the placing of the aforesaid securities.

SEC. 114. *Servicing and Redemption of the Public Debt.* - The servicing and redemption of the public debt shall also be effected through the Bangko Sentral.

BANGKO SENTRAL SUPPORT OF THE GOVERNMENT SECURITIES MARKET

SEC. 115. *The Securities Stabilization Fund.* - There shall be established a "Securities Stabilization Fund" which shall be administered by the Bangko Sentral for the account of the government.

The operations of the Securities Stabilization Fund shall consist of purchases and sales, in the open market, of bonds and other evidences of indebtedness issued or fully guaranteed by the government. The purpose of these operations shall be to increase the liquidity and stabilize the value of said securities in order to promote private investment in government obligations.

The Monetary Board shall use the resources of the Fund to prevent, or moderate, sharp fluctuations in the quotations of said government obligations, but shall not endeavor to alter movements of the market resulting from basic changes in the pattern or level of interest rates.

The Monetary Board shall issue such regulations as may be necessary to implement the provisions of this Section.

SEC. 116. *Resources of the Securities Stabilization Fund.* - Subject to Section 127 of this Act, the resources of the Securities Stabilization Fund shall come from the balance of the fund as held by the Central Bank under Republic Act No. 265 as of the effective date of this Act.

SEC. 117. *Profits and Losses of the Fund.* - The Securities Stabilization Fund shall retain any net profits which it may make on its operations, regardless of whether said profits arise from capital gains or from interest earnings. The Fund shall correspondingly bear any net losses which it may incur.

ARTICLE III. — Functions as Financial Advisor of the Government

SEC. 118. *Financial Advice on Official Credit Operations.* - Before undertaking any credit operation abroad, the government, through the Secretary of Finance, shall request the opinion, in writing, of the Monetary Board on the monetary implications of the contemplated action. Such opinions must similarly be requested by all political subdivisions and instrumentalities of the government before any credit operation abroad is undertaken by them.

The opinion of the Monetary Board shall be based on the gold and foreign exchange resources and obligations of the nation and on the effects of the proposed operation on the balance of payments and on monetary aggregates.

Whenever the government, or any of its political subdivisions or instrumentalities, contemplates borrowing within the Philippines, the prior opinion of the Monetary Board shall likewise be requested in order that the Board may render an opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.

SEC. 119. *Representation on the National Economic and Development Authority.* - In order to assure effective coordination between the economic, financial and fiscal policies of the government and the monetary, credit and exchange policies of the Bangko Sentral, the Governor of the Bangko Sentral shall be an ex officio member of the National Economic and Development Authority Board.

CHAPTER I PRIVILEGES AND PROHIBITIONS

ARTICLE I. — Privileges

SEC. 120. *Tax Exemptions.* - The provisions of any general or special law to the contrary notwithstanding, the Bangko Sentral shall be exempt from all national, provincial, municipal and city taxes, fees, charges and assessments now in force or hereafter established.

The exemptions authorized in the preceding paragraph of this Section shall apply to all property of the Bangko Sentral, to the resources, receipts, expenditures, profits and income of the Bangko Sentral, as well as to all contracts, deeds, documents and transactions related to the conduct of the business of the Bangko Sentral: *Provided, however,* That said exemptions shall apply only to such taxes, fees, charges and assessments for which the Bangko Sentral itself would otherwise be liable, and shall not apply to taxes, fees, charges, or assessments payable by persons or other entities doing business with the Bangko Sentral: *Provided, further,* That foreign loans and other obligations of the Bangko Sentral shall be exempt both as to principal and interest, from any and all taxes if the payment of such taxes has been assumed by the Bangko Sentral: *Provided, finally,* That in no case shall the Bangko Sentral pay guarantee fees of any kind.

SEC. 121. *Exemption from Customs Duties.* - The provision of any general or special law to the contrary notwithstanding, the importation and exportation by the Bangko Sentral of notes and coins, and of gold and other metals to be used for purposes authorized under this Act, and the importation of all equipment needed for furnishing, equipping and operating the offices of the Bangko Sentral, shall be fully exempt from all customs duties and consular

fees and from all other taxes, assessments and charges related to such importation or exportation.

SEC. 122. *Applicability of the Civil Service Law.* - Appointments in the Bangko Sentral, except as to those which are policy-determining, primarily confidential or highly technical in nature, shall be made only according to the Civil Service Law and regulations: *Provided,* That no qualification requirements for positions in the Bangko Sentral shall be imposed other than those set by the Monetary Board: *Provided, further,* That the Monetary Board or Governor, in accordance with Sections 14 (c) and 16 (d) of this Act, respectively, may without need of obtaining prior approval from any other government agency, appoint personnel in the Bangko Sentral whose services are deemed necessary in order not to unduly disrupt the operations of the Bangko Sentral.

Officers and employees of the Bangko Sentral, including all members of the Monetary Board, shall not engage directly or indirectly in partisan activities or take part in any election except to vote.

ARTICLE II. — Prohibitions

SEC. 123. *Prohibitions.* - The Bangko Sentral shall not acquire shares of any kind or accept them as collateral, and shall not participate in the ownership or management of any enterprise, either directly or indirectly.

The Bangko Sentral shall not engage in development banking or financing; *Provided, however,* That this restriction shall not apply in cases where pursuant to the terms of agreements with international and regional inter-governmental financial organizations, the Bangko Sentral is designated as the conduit for development loan funds; *Provided, further,* That outstanding loans obtained or extended for development financing shall not be affected by the prohibition of this Section.

CHAPTER VII TRANSITORY PROVISIONS

SEC. 124. *Phase-out of Fiscal Agency Functions.* - The Bangko Sentral shall, within a period of five (5) years from the approval of this Act, phase out all fiscal agency functions provided for in Sections 112, 113, 114, 115, 116, and 117, as well as other pertinent provisions of this Act.

SEC. 125. *Phase-out of Regulatory Powers Over the Operations of Finance Corporations and Other Institutions Performing Similar Functions.* - The Bangko Sentral shall, within a period of five (5) years from the effectivity of this act, phase out its regulatory powers over finance companies without quasi-banking functions and other institutions performing similar functions as provided in Republic Act No. 265, as amended; Republic Act No. 5980, as amended; and other existing laws, the same to be assumed by the Securities and Exchange Commission.

SEC. 126. *Implementing Details.* - The Bangko Sentral shall be made operational within sixty (60) days from effectivity of this Act, during which period:

(a) The President of the Philippines shall constitute the Monetary Board by appointing the members thereof; and

(b) The transfer of such assets and liabilities from the Central Bank to the Bangko Sentral as provided in Section 127 is completed.

All incumbent personnel in the Central Bank as of the date of the approval of this Act shall continue to exercise their duties and functions as personnel of the Bangko Sentral subject to the provisions of Section 128: *Provided*, That such personnel in the Central Bank as may be necessary for the purpose of implementing Section 127 may be assigned by the Bangko Sentral Monetary Board to the Central Bank.

SEC. 127. *Transfer of Assets and Liabilities.* - Upon the effectivity of this Act, the Monetary Board, in representation of the Central Bank of the Philippines, and the Secretary of Finance, in representation of the government, shall determine the assets and liabilities of the Central Bank which may be transferred to or assumed by the Bangko Sentral.

The following guidelines shall be observed in the determination of which assets and liabilities shall be transferred to the Bangko Sentral:

(a) The Bangko Sentral Monetary Board shall have primary responsibility for working out creative monetary and financial solutions to retire the Central Bank liabilities and losses at the least cost to the government;

(b) The assets and liabilities to be transferred shall be limited in an amount that will enable the Bangko Sentral to perform its responsibilities adequately and operate on a viable basis;

(c) Liabilities to be assumed by the Bangko Sentral shall include liability for notes and coins in circulation as of the effective date of this Act; and

(d) Any asset or liability of the Central Bank not transferred to the Bangko Sentral shall be retained and administered, disposed of and liquidated by the Central Bank itself which shall continue to exist only for the purposes provided in this paragraph: *Provided*, That in consideration for the transfer of selected assets to the Bangko Sentral, the Bangko Sentral shall financially assist the Central Bank in the liquidation of its liabilities: *Provided, finally*, That upon disposition of said retained assets and liquidation of said retained liabilities, the Central Bank shall be deemed abolished.

The Bangko Sentral shall remit seventy-five percent (75%) of its net profits to the old Central Bank until such time when the latter's net liabilities are fully liquidated. In the event that on a year-to-year basis, the Bangko Sentral's

contributions are insufficient to meet the requirements of servicing liabilities left with the Central Bank, the Bangko Sentral shall request Congress for an appropriation in such amount as may be necessary to settle the Central Bank's obligation.

All actions taken by the Bangko Sentral Monetary Board under this Section shall be reported to Congress within thirty (30) days.

SEC. 128. *Mandate to Reorganize.* - The Bangko Sentral shall be reorganized by the Monetary Board, which may include adopting an entirely new staffing pattern and organizational structure to suit the operations of the Bangko Sentral under this Act, and personnel who may not be retained are deemed separated from the service. No preferential or priority right shall be given to or enjoyed by any personnel for appointment to any position in the new staffing pattern, nor shall any personnel be considered as having prior or vested rights with respect to retention in the Bangko Sentral or in any position which may be created in the new staffing pattern, even if he should be the incumbent of a similar position prior to reorganization. The formulation of the program of reorganization shall be completed within six (6) months after the effectivity of this Act, and shall be fully implemented within a period of six (6) months thereafter.

SEC. 129. *Separation Benefits.* - Pursuant to Section 14 of this Act, the Monetary Board is authorized to provide separation incentives, and all those who shall retire or be separated from the service on account of reorganization under the preceding Section shall be entitled to such incentives, which shall be in addition to all gratuities and benefits to which they may be entitled under existing laws.

SEC. 130. *Repealing Clause.* - In addition to Sections 43 and 43-A of Republic Act No. 265, as amended, Sections 26, 45, 48, 49, 50, 60, 66, 67, 70, 73-A, 77, 79, 83, 88, 89, and 114 of the same Act are hereby likewise repealed.

Upon constitution of the Monetary Board pursuant to Section 126 of this Act, Republic Act No. 265, as amended, is deemed repealed. The provisions of any other law, special charters, rule or regulation issued pursuant to Republic Act No. 265, as amended, or parts thereof, which may be inconsistent with the provisions of this Act are likewise deemed repealed.

SEC. 131. *Reference to the Central Bank of the Philippines in Other Laws and Charters.* - All references to the Central Bank of the Philippines in any law or special charters shall be deemed to refer to the Bangko Sentral.

SEC. 132. *Effectivity Clause.* - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved.

Senator Romulo. Mr. President, for the sponsorship speech, I ask that the distinguished Gentleman from Camarines Sur and Bohol, the Chairman of the Committee on Banks, Financial Institutions and Currencies, Senator Raul Roco, be recognized.

The President. The distinguished Gentleman from Camarines Sur and Bohol, Senator Roco, is recognized.

SPONSORSHIP SPEECH OF SENATOR ROCO

Senator Roco. Thank you, Mr. President.

Mr. President, before beginning the formal sponsorship, may I just make certain explanations as to the format of the Report. Our Colleagues will notice that the Report in their black folders says "As originally filed." The format must be explained in an effort to help our Colleagues distinguish between the sections that have not been modified in the Central Bank Act and the sections that have been modified.

All sections, Mr. President, in Senate Bill No. 1235, which are double-spaced, are modified or amended versions or are altogether new versions that could not be found in the old Central Bank Act.

There are small footnotes which normally do not appear in the reports, Mr. President. Like in Section 1, it says at the end of the second paragraph in parenthesis "(1a)"; meaning to say, it was Section 1, amended. And in Section 2, it says "(2a)" at the end, so that the original Section 2 has been modified.

Let me also acknowledge, Mr. President, the help of Central Bank officials who have been truly helpful, especially Attorney Barin, Celia Gonzales — and I want to mention their names because we might find them in the new Monetary Board — Attorney Regalado, who is now with PNB, Gabby Singson, and many others, who helped, even as they realized that what the Central Bank may have wanted was not being given by the Report, and they are still with us.

May I also acknowledge, Mr. President, that there are other sponsors who will speak after my main presentation. They are Senators Herrera, Senator Romulo, and Guingona.

With those statements, Mr. President, I am honored, as Chairman of the Committee, to submit to our Colleagues and the Senate President in this Chamber Committee Report No. 138 as regards Senate Bill No. 1235.

Senate Bill No. 1235 is a consolidation of Senate Bill No. 23 which was introduced by Senator Romulo; Senate Bill No. 367, introduced by Senator Osmeña; Senate Bill No. 844, introduced by Senator Gonzales; Senate Bill No. 866, again, introduced by

Senator Romulo; and, finally, Senate Bill No. 945, introduced by Senator Guingona.

The other coauthors, Mr. President, were Senators Soto, Tatad, Herrera, Coseteng, and the Chairman of the Committee.

Although we normally discuss the title of the bill last, I want to call attention to it because it is entitled "The New Central Bank Act" instead of a "Central Monetary Authority." This was a consensus decision, Mr. President. Because, after having 25 public hearings and having met with various technical working groups for more than 30 different days, the Committee came to the conclusion that the Central Monetary Authority, by itself, is supposed to be a step back from a Central Bank. Apparently, as we were impressed by the testimony, we begin with a Central Monetary Authority and we evolved into a Central Bank. Since we already have a Central Bank, we did not feel that a stepback or a demotion of the Central Bank at present was called for. We, therefore, called it "The New Central Bank Act."

The new Central Bank, however, shall be called the *Bangko Sentral Ng Pilipinas*. This new Central Bank seeks to implement Article XII, Section 20 of the Philippine Constitution, which I will read for information and stress, and I quote:

The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.

The second paragraph reads:

Until the Congress otherwise provides, the Central Bank of the Philippines, operating under existing laws, shall function as the central monetary authority.

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

May we call the attention of our Colleagues, Mr. President, that this Section stresses that monetary policy lies with the Central Bank, or in this particular case, the *Bangko Sentral* if that is how we shall call the new Central Monetary Authority. It was not supposed to be a duty of Congress. In fact, the Constitution very particularly stressed that monetary policy must remain with the monetary officials who are supposed to know what they are doing in terms of monetary policy.

We realize, Mr. President, that there is some minor constitutional snag because the Constitution talks of a central monetary authority. We, in the Committee, thought that by using the following terms in Section 1, we can satisfy the requirements of the Constitution.

Section 1, Mr. President, says:

There is hereby established an independent Central Monetary Authority which shall be a body corporate known as the Bangko Sentral ng Pilipinas.

And doing so, Mr. President, we feel we comply with the constitutional injunction.

The features of the new Central Bank Act, Mr. President, aside from the name as already mentioned, is launched by Section 2. The Bangko Sentral shall have as primary objectives the definition of monetary policy, the supervision of banks and the maintenance of price stability for sustained economic development.

Allow me to put on record our definition of terms. These are definitions given to us by economists, and we take their word and authority on the basis of the definitions. But it may be important later on for the Monetary Board, or if there is litigation in this new Central Bank Act, to have in the *Record* the definitions.

"Price," Mr. President, as used in the bill, does not refer to prices of individual goods and services purchased by the public, but to the general price level which is a composite or weighted average of the prices of commodities and services. It is generally represented by the consumer price index which is computed by the National Statistics Office every month using data from various sample surveys.

On the other hand, Mr. President, "price stability," ideally, should refer to the domestic consumer price index that is not moving, or to domestic inflation rate at zero. In reality, however, this may not hold true because there are several uncontrollable factors that could contribute to the domestic inflation rate, one of which is imported inflation. Price stability should therefore be interpreted in a more liberal manner in this bill.

Price stability connotes two things. First, it means that the changes of the general price level or the domestic inflation rate are minimal. And second, such changes are not severely erratic, or, as the economists would put it, Mr. President, the amplitude of such movement is not large. We certainly miss the Gentleman from Bulacan, the Vice-Chairman of our Committee, who could have added more sanguine definition to amplitude. That is the policy direction.

In layman's term, Mr. President, the principal concern of the new Central Bank will be to insure that there is less movement and we have stability in the price index, so that people and businessmen can plan their projections with the least possible deviation from their original assumptions.

Page 2 — and I do not propose to bring my Colleagues to each and every page because I will later on speed up as we go to the more technical terms — starts with a statement, and this is very important: The primary objective of the Bangko Sentral is to maintain price stability conducive to a balanced and sustainable growth of the economy.

I have read the definitions, Mr. President, and I want to add a definition of "balanced." Here, we refer to monetary policy that is neutral with respect to all sectors of the economy. In other words, it does not favor one sector over any other. We just did not want to use "neutral" because we are advised by economists that it is better to use the term "balanced."

On the other hand, Mr. President, the word "sustainable" implies that a certain level of growth is maintained, without undergoing the boom and vast situation characteristic of an unstable economy. The wording of this Section is very important in future debates, because the Committee purposely and consciously used primary objective as the maintenance of price stability. So that in future debates in the monetary authority, we shall use price stability as a priority over any argument as regards balanced and sustainable growth of the economy or other economic factors that our economists may be pushing through.

On page 4 of the report, Mr. President — and I want to call the attention of this Body to this — we have Sections 3, 4 and 5. They are in single space because none of the four bills tried to modify them and the Committee did not find any need to modify nor revise any of the wordings.

We now come to the implementation, Mr. President, of the first objective of the constitutional mandate to ensure independence of the Central Bank or the new Central Monetary Authority or the new Bangko Sentral, by changing slightly the structure.

The Monetary Board at present, Mr. President, is composed of seven, five being from the government sector. We submit that it should be modified in the following manner:

The Monetary Board shall be composed of seven, with two coming from the government and five from the private sector. The government shall be represented by the Governor of the Central Bank and a Cabinet Member designated by the President.

The Committee, Mr. President, was not able to resolve in its mind who among the Cabinet Members should be there. It is the intention, however, of the Committee that it should not be the Secretary of Finance. But we did not want to put it in the law, nevertheless, we want that guiding spirit to be understood later on when they look at the debates.

The private sector representatives shall be composed of three who are full-time and two who are part-time members.

There is a summary that will be distributed very soon so that our Colleagues may want to follow the summary.

The Monetary Board and our Central Bank officials have always complained, Mr. President, that they cannot compete with the private sector because of poor compensation. The report seeks to help the Central Bank officials. The new Monetary Board members shall have a compensation not exceeding P100,000 a month. This same amount shall be the ceiling for the compensation scheme for personnel of the Bangko Sentral, which shall be exempt from the Salary Standardization Law.

The members of the Monetary Board shall also be given indemnification in case they are sued for actions pursuant to duty. This is patterned after private corporate practice whereby directors in the performance of their duty are given assistance when they are sued. Our witnesses, Mr. President, called attention so many times to the fact when Central Bank officials were sued and their retirement went into paying for legal expenses and in some instances, they were totally disturbed both in their retirement and in their private life, and they were driven to penury because of court suits. If we want to help them to be independent, we should give them the instruments or the defenses or adequate legal remedies in defending themselves if they are sued pursuant to action as mandated by their duty.

There is also greater flexibility in the organization of the Bangko Sentral as the Monetary Board is empowered to establish a human resource management system which shall govern all personnel actions in the Bangko Sentral. Such system shall aim to establish professionalism and excellence at all levels of the Bangko Sentral in accordance with sound principles of management.

All this effort to strengthen the Monetary Board, Mr. President, must have a price. We cannot make the Monetary Board independent in such a manner that they will be independent of the President; that they will be independent of this Congress; and that they will be independent of the Republic of the Philippines or the people of the Philippines. This independence and strength has a price.

1. Members of the Monetary Board shall be subject to the Commission on Appointment's approval. We are aware of the

case which says, "The Commission on Appointments can only act for certain enumerated officials that begins with members of the Cabinet and listed officials."

We are aware, Mr. President, that the Central Bank is not supposed to be covered by this enumeration. We tried to go around this restriction. We have made the members of the Monetary Board equivalent in rank to the Cabinet so that we can satisfy the constitutional requirement of their being subject to confirmation by the Commission on Appointments.

2. Aside from that, Mr. President, we also give to the Monetary Board members the duty to exercise extraordinary diligence in the performance of their duties.

Let me dwell a little on that, Mr. President, for our Colleagues. Just for a little legal background.

There are various standards for diligence or action, Mr. President. One is as a diligent father of a family. There is a known standard, "Every prudent man is supposed to act in that manner."

In the case of public carriers, in the case of buses, in the case of planes and ships, Mr. President, because it involves so many people and the safety and life of so many individuals, we impose an extraordinary diligence upon a driver, upon a pilot, upon a ship captain.

That extraordinary diligence, Mr. President, in the case of the Monetary Board now flows from the extremely sensitive fiduciary obligation of the new Monetary Board members. We give them powers, we balance it with corresponding duties.

We also impose upon them very clear reporting requirements, Mr. President, which is in the latter part of the bill. These reports will not only cover the Balance Sheet, but it will cover the Profit and Loss Statement as well. It will cover a number of things that I will come to within due course.

The concentration and focus of the Monetary Board, Mr. President, as mentioned, shall be on monetary policy and keeping or maintaining price stability. Fiscal functions will be avoided or discouraged.

To enhance autonomy from the Executive Department, which was the clear intention of the Constitutional Commission, the bill proposes the phase-out of fiscal agency functions within a period of five years. These so-called "fiscal agency functions" include the issue and sale of government securities, servicing and redemption of the public debt and the administration of the Securities Stabilization Fund which, I understand, has a little amount of money which we can fold into somewhere else.

Mr. President, after the structure of the Monetary Board and their various defined authorities and responsibilities, we now come to supervision over the banks. The supervision functions of the Bangko Sentral are clearly spelled out and shall consist of basically four options, calibrated to answer bank difficulties. I will not discuss them. I will just mention them, Mr. President.

The first reaction of the Central Bank or the banks that are in trouble may be to seek emergency loans from the new Central Bank or the Bangko Sentral. That is the first step.

The second step, Mr. President, when there is temporary liquidity problems, there can be a conservator appointed for a term of one year. Our Committee was conscious of the experience where conservators enjoyed being conservators of banks. And even up to now, they are still controlling banks or financial institutions.

In the bill, it is recommended, Mr. President, that there be an incentive for conservators appointed by the Central Bank if they finish their job in less than one year. They, in fact, get bonuses for acting fast.

The third step, Mr. President, is a receivership of the banks. This will comply with the Rules of Court. And the fourth, if nothing else happens, is the liquidation or dissolution of the banks.

Mr. President, I hate to be legalese or obtuse in these discussions, but there is no other way because it is so technical. That brings us to Sections 28, 29, 30 and 31.

There are also legal obligations that are imposed on banks. One of the more innovative additions, Mr. President, can be found under "False Statement."

In the present law, false statement to the Monetary Board or to the examiners of the Bangko Sentral is punishable. What the Committee has added is not only false statements, but misleading statements, and they need not, therefore, be false.

If statements are arranged in a manner that will lead us to a conclusion that is not correct, that by itself, Mr. President, will be punishable.

There are all sorts of administrative sanctions on banks but they were carefully crafted, Mr. President, to protect private or free enterprise to the extent socially feasible.

The departments enumerated under the Central Bank, Mr. President, are basically the same as the present departments of the Central Bank.

Reports on publications, Mr. President. The Bangko Sentral — and this is important for transparency and for interdependence with Congress — shall publish a general Balance Sheet showing the volume and composition of its assets and liabilities as of the last working day of the month within 60 days after the end of each month except for the month of December which shall be submitted within 90 days.

The Monetary Board shall also publish and submit the following reports to the President and to Congress: No later than 90 days, an Analysis of Economic and Financial Developments; within the same period of time, the preceding year's budget and Profit and Loss Statement with reasonable details; 120 days after the end of every semester, a Review of the State of the Financial System; and as soon as practicable, Mr. President, within 72 hours after they are taken, if there are abnormal movements in monetary aggregates and the general price level, they must report these remedial measures. This is in addition to the annual report that they will submit.

Let me now come to something that we cannot see in the report. We will not see it because it is repealed, and we will see it only in the last portion. But it is very important, Mr. President, because the bill seeks to abolish two of the three suspense accounts, namely: the Monetary Adjustment Account and the Exchange Stabilization Adjustment Account.

For some reason, Mr. President, although these accounts were an accumulation of costs and expenses, they are reported in the Balance Sheet of the present Central Bank under Assets.

The Monetary Adjustment Account, for instance, is made up of extraordinary costs of printing notes or minting coins.

In other words, when they start making these coins, they must be spending. This is part of the Monetary Adjustment Account, but it is reflected under Assets. Some of our economists have called it "ampao" assets.

There are also extraordinary expenditures arising from the issue and service of indebtedness. There is also the interest paid on bank reserves. These are all part of the Monetary Adjustment Account; this will be abolished in the Bangko Sentral.

The other account, Mr. President, refers to the Exchange Stabilization Adjustment Account which is made up, among others, of interest expenses and commitment fees on foreign loans and other foreign obligations as well as documentation and other expenses incurred in connection with the negotiations, securing and servicing of foreign obligations.

Again, these are reflected under the present assets of the Central Bank. They will be abolished so that they will no longer

have a hiding place for extraordinary expenses, and Bangko Sentral shall become more transparent than the present Central Bank. The third account, however, will be maintained.

What happens, however, to these extraordinary expenses, Mr. President? They shall be treated as ordinary expenses in the Profit and Loss Statement of the Bangko Sentral. What happens to the Monetary Adjustment Account and the Exchange Stabilization Adjustment Account of the old Central Bank? They will continue for the account of the old Central Bank. Later on, I will explain how we think it should be treated.

The third account, Mr. President, refers to the Reevaluation of International Reserves account. This is retained with the Bangko Sentral. The RIR records gains or losses from the reevaluation of Bangko Sentral's assets or liabilities in foreign currency caused by changes in the exchange rates of foreign currencies vis-a-vis the Philippine peso.

While the bill provides for the repeal of Sections 43, the Monetary Adjustment Account and 43-A, the Exchange Stabilization Adjustment Account of the old Central Bank Act, the amounts outstanding as of the date of the effectivity of the new law shall continue with the old Central Bank. However, the RIR account as of the effective date of this new law continues to be for the account of the old Central Bank and shall be governed by the provisions of Section 44 now of the present law. But we will fossilize the three accounts in the old Central Bank and start anew in the Bangko Sentral.

Let me come, Mr. President, to the Transitory Provisions. But let me gloss through. There is a whole set of sections which are very technical and, basically, they have small modifications, maybe in style but very seldom were there modifications in substance. A lot of them are preserved as originally envisioned by the present Central Bank Act. They refer to guiding principles of monetary administration, domestic monetary stabilization, instruments of Bangko Sentral action, operations in gold and foreign exchange, emergency restrictions on exchange operations, and a whole slash of guidelines, laws, and regulations that refer to how the Central Bank operates.

In the questioning, Mr. President, we want to call attention to something very essential. None of the four bills that were submitted to our Committee tried to reform beyond recognition the operations of Central Banking. That is why all these very heavy terms are given to the Committee only to complete the picture of how the new Central Bank will operate. They are not new, we are not reinventing the wheel. Central Banking shall continue with stresses on the independence of the new Monetary Board and new features of the Monetary Board. Most of these, even the open market operations, are basically the same. And we will notice on page 45 that they are even single-spaced.

The rules on bank reserves are fundamentally the same and, maybe we can satisfy Senator Guingona by underlining where there could be some changes for facility of debate.

If we were to remain, Mr. President, with the first part of the report without looking at the Transitory Provisions, there is very little, I think, to debate. There will be very little controversy. The Central Bank or the Bangko Sentral shall operate in a certain fashion. Presumably they will be prudent. We shall equip them with new weapons; we shall equip them with higher independence; we shall pay them better; we shall demand higher diligence from them. That, I submit, should not be subject to too much debate. All the controversies in this report will, I think, focus on the Transitory Provisions. And we wish to call attention to this because, theoretically, we can approve the bill without transitory provisions and never mind what Governor Cuisia is talking about.

Let me try to walk you through the Transitory Provisions, Mr. President. In the Transitory Provisions, and I am looking now at page 57, "the phase-out of fiscal agency functions", that is easy. We just delete later on Sections 112, 113 up to 117. The phase-out of regulatory powers over the operations of finance corporations and other institutions performing similar functions will be transferred within five years to the Securities and Exchange Commission.

How do we implement, however, that transition? And what happens if this bill is approved subject to the superior judgment of our Colleagues, Mr. President? What happens?

The end result will be something like this, Mr. President. Number one, we shall have the old Central Bank, the new Bangko Sentral, and they will be coexisting for a while. The Bangko Sentral shall be made operational within 60 days from the effectivity of the Act. During that 60-day period, the President of the Philippines shall constitute the Monetary Board by appointing the members thereof.

And, Number 2, the transfer of certain assets and liabilities from the Central Bank to the Bangko Sentral as provided in Section 127 shall be completed.

Mr. President, in the bills, some recommended some kind of an asset privatization or some asset reconstruction or something like the APT. Others recommended another subordinate or subsidiary corporation that will eventually be liquidated. Our Committee felt that by maintaining the old Central Bank and creating a Bangko Sentral with a capital of at least P10 billion, and by making then the Bangko Sentral Monetary Board select the assets and liabilities that will be transferred, it will leave to superior, competent monetary hands the resolution eventually of the problems of the liabilities and losses of the Central Bank.

Within that 60-day period, therefore, Mr. President, upon the effectivity of this law, assuming the new Monetary Board is constituted, we shall see the following things in the transfer of assets and liabilities:

The Monetary Board, Mr. President, in representation of the Bangko Sentral — and there is an error here — and the Secretary of Finance, in representation of the government, shall determine the assets and liabilities of the Central Bank which may be transferred to or assumed by the Bangko Sentral.

The following guidelines, Mr. President, shall be observed in the determination of which assets and liabilities shall be transferred to the Bangko Sentral:

1. The Bangko Sentral Monetary Board shall have primary responsibility for working out creative monetary and financial solutions to retire the Central Bank liabilities and losses at the least cost to the government.

We also imprinted on this "Instructions," Mr. President, the need for transparency and accountability.

2. The assets and liabilities to be transferred shall be limited in an amount that will enable the Bangko Sentral to perform its responsibilities adequately and operate on a viable basis.

There are meanings to that later on which we hope to explain, Mr. President.

3. The liabilities to be assumed by the Bangko Sentral shall include liability for notes and coins in circulation as of the effective date of this Act.

4. Any asset or liability of the Central Bank not transferred to the Bangko Sentral shall be detained and administered, disposed of and liquidated by the old Central Bank itself, which shall continue to exist only for the purposes provided in this paragraph, which is the liquidation of the old Central Bank: Provided, that in consideration for the transfer of selected assets to the Bangko Sentral, the Bangko Sentral shall financially assist the Central Bank in the liquidation of its liabilities: Provided, finally, Mr. President, that upon disposition of said retained assets and liquidation of said retained liabilities, the Central Bank shall be deemed abolished.

The Section continues, Mr. President.

The Bangko Sentral shall remit seventy-five percent (75%) of its net profits to the old Central Bank until such time when the latter's net liabilities are fully liquidated. In the event that on a year-to-year basis, the Bangko Sentral's contributions are

insufficient to meet the requirements of servicing liabilities left with the Central Bank, the Bangko Sentral shall request Congress for an appropriation in such amount as may be necessary to settle the Central Bank's obligations.

Mr. President, — this may be the crux of the debate — the Central Bank has requested the Committee to authorize the National Government to assume some P308 billion worth of losses and liabilities. They have asserted that this is necessary if the new Bangko Sentral must succeed.

Evidently, Mr. President, if the Filipino people pay for P308 billion, the problems of our monetary leaders will be over. The new Bangko Sentral cannot help but succeed. After all, we have paid the bill. If the Philippines and all the money in the world would be bailing out the old Central Bank, it certainly is the simplest solution.

The Committee, however, is conscious that the resources of the country are scarce and, therefore, the allocation of the resources must seek maximum overall benefits to the country and to the Filipino people. This requires, Mr. President, a dynamic and creative pursuit of monetary policies to maintain price stability.

Because of difficult times, our monetary leaders must not only follow a far-reaching, macro policy goal. They must, on a day-to-day basis, prudently implement monetary policy. There are no easy solutions, Mr. President.

The Central Bank officials submitted many other alternative solutions, Mr. President. Instead of paying P308 billion, they have given us at least nine alternatives, and other economists have also come up with variations. The variations, however, merely convinced our Committee of the need to give the Monetary Board flexible powers and guidelines in the restructuring of the Central Bank losses and liabilities.

Mr. President, we cannot fossilize numbers into this new law and there are good reasons for this: First, Article XII, Section 20 of the Constitution requires the establishment of an independent Central Monetary Authority whose governing board must be Filipinos "of known probity, integrity and patriotism," majority of whom shall come from the private sector. The Monetary Authority is expected to be independent of the President and the Congress in providing "policy directions in the areas of money, banking and credit." Until otherwise provided, the present Central Bank shall perform these functions.

Thus, Mr. President, when we read the full constitutional mandate, Congress is mandated to leave the monetary policy to the new Central Monetary Authority or the Bangko Sentral, as we call it in this bill, or to the old Central Bank as it exists today.

The Constitution, Mr. President, does not mandate financial independence of the Central Bank or the new Central Monetary Authority for it could not be done. This was recognized even by the Central Bank.

In the drafts submitted to the Eighth and Ninth Congress, Mr. President — and that is the past and our Congress now — there is no mention of financial restructuring of the old Central Bank. This was of recent vintage. This occurred only sometime in August or September of last year.

Second, Mr. President, even the President and the economic planners of the government recognize that situation. Thus, the Medium-Term Philippine Development Plan is not premised or dependent for its projections on the restructuring of the old Central Bank's liabilities and losses.

Third, we submit that it is bad legislative policy to commit future Congresses to a yearly appropriation of more than P25 billion over a period of ten to 20 years. Regardless of whichever alternative is chosen finally by the new Monetary Board to restructure the old Central Bank's liabilities and losses and make the new Bangko Sentral viable, the financial drain on the National Government, Mr. President, appears to be at least P25 billion per year. Regardless of whichever alternatives we follow, that is the clear effect on the National Government and on the Filipino taxpayers. We will have to pay somehow or another something like P25 billion a year. It is not prudent to approve such an appropriation of P25 billion plus a year over the next ten, 20 or 30 years. Let the Bangko Sentral request for appropriation on a year-to-year basis so that they can be accountable. They can explain their plans and show their work and effort for the Filipino people on a year-to-year basis.

Mr. President, the burden to the Filipino taxpayer is difficult enough as it is. The sovereign debt, it is reported, is now \$30.9 billion. President Ramos, in the exercise of his special powers under the Electric Power Crisis Act, has committed to spend more than P800 billion over the next ten years to help solve the energy problems. Another P308 billion over the next ten to 20 years is too much of a burden to be decided now.

This Ninth Congress should reject any attempt to secure a P308 billion appropriation over a long-term period. It preempts future Congresses. It will allow the Monetary Board to be independent even of the Filipino people. It is worse than the automatic appropriation clauses for it sanctifies the wrongdoings of past monetary leaders with the blood and sweat of the Filipino taxpayer even as they are deprived of sufficient social and economic services.

Mr. President, the best and the brightest minds among the economists, monetary leaders, finance experts of the Philippines,

are expected to be in the next Monetary Board of the Bangko Sentral. Let them use their best creativity and dynamism to solve the problems that their predecessors brought about.

The Philippines, Mr. President, is in search of heroes. Maybe one will still come from the Bangko Sentral of the Philippines.

Let me end then, Mr. President, and thank all of you. I do not normally give long speeches but I had no choice. It is a 70-page report and we could not help but be a little lengthy.

Thank you very much. I think Senator Herrera will take up the cosponsorship speech.

Senator Romulo. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Romulo is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a one-minute suspension.

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

It was 6:12 p.m.

RESUMPTION OF THE SESSION

At 6:13 p.m., the session was resumed.

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

Senator Romulo. Mr. President, with the permission and upon advice of the Chairman of the Committee on Banks, may I ask that we now recognize for the second sponsorship speech the distinguished Gentleman from Cebu and Bohol, Senator Ernesto Herrera.

The Presiding Officer [Senator Aquino]. Senator Herrera is recognized.

SPONSORSHIP SPEECH OF SENATOR HERRERA

Senator Herrera. Thank you, Mr. President.

Mr. President, I am pleased to cosponsor Senate Bill No. 1235 which addresses our monetary problems through the proposed Bangko Sentral ng Pilipinas. We all agree that these

problems are a pressing concern, considering the threat of the International Monetary Fund since last year to withdraw its new money facility unless we pass the law creating the CMA or the Central Monetary Authority. But we choose not to be intimidated by the Fund's subtle attempt at "blackmail." We wanted to be very careful as we knew that any error would adversely impact on all aspects of our national life. We have been so careful that we wanted to know all the possible schemes and combination of schemes to restructure the liabilities of the Central Bank. We have also motivated the academe and the business community to debate on this and the issue of an independent Central Monetary Authority.

My observation, Mr. President, is that we have been spending a substantial amount of Legislative as well as Executive time in our desire to do things with caution. This is fine, considering that we are talking of billions in Central Bank liabilities and the future of our economy in the hands of a new Central Monetary Authority. But I believe that we have heard enough from our technocrats and it is time to decide the best option for our people.

In this regard, indulge me with a few moments to point out important considerations on the matter of the CMA independence and on what to do with the Central Bank's liabilities. These issues have tremendous impact on employment which is my foremost concern.

The Independence Issue

On the issue of independence, Mr. President, concerned academics, bankers, and businessmen have been exchanging arguments on the constitutional provision for an independent Central Monetary Authority. But what does independence really mean? What are the arguments for independence?

Monetary policy-making is inarguably a serious business. The economy responds quickly to changes in monetary policy, and any policy error is immediately felt by the public. For instance, months back, our exporters had been alarmed that the untimely appreciation of the peso may threaten the viability of their business. But the World Bank alleges in its study that the Central Bank hesitates to devalue the peso because devaluation means more dollars required to pay for its foreign indebtedness; it means an increase of its deficit.

Likewise, a higher reserve requirement induces high interests and lowers the resources available for lending. This discourages investment and consequently increases unemployment. Some of our economists say that the Central Bank is resistant to demands for a lower reserve requirement because of its apprehension that any reduction in the reserve requirement would result in higher deficit for the Central Bank. The connection is that a lower

reserve requirement would result in lower resources for the banks' lending purposes and, therefore, lower income to alleviate its indebtedness.

I do not wish to belabor the obvious but a sound currency is important not only to the economy but also for the welfare of society. The task of our central bankers, therefore, is to maintain a sound monetary policy that would keep our economy on an even keel.

Historians of central banking observed that the worst episodes in monetary history — the great inflations — occurred when central bankers were subjected to political pressures, against which no fixed rules on the monetary system in a free market could have withstood.

Interestingly, however, it is observed that through the years no Central Bank in the world has been free from pressures. Even the United States Federal Reserve System has not been able to be as independent from the United States Government as its members would probably like. As two CRC economists noted, the FED "have had to cooperate with some groups, incorporate members of others, create dependencies, and gradually surrender, if absolutely necessary, to outside pressures from activist economists, congressmen and bankers."

The Board of Governors of the United States Federal Reserve System are appointed by the United States President, subject to the approval of the Senate. The Bank of England, which used to be a private bank, was nationalized. The Bank of Japan is subordinate to the government and subject to quite extensive supervision by the government, through the Minister of Finance who issues general directives, as well as orders, to the Bank.

Our own Central Bank is a government corporation. But we know that this setup has never been assailed from executive meddling. We can still recall that in 1985, on the eve of the presidential elections, with the inflation at 23 percent from the 50.3 percent of 1984, accompanied by a horrendous GNP growth rate of negative 16 percent, then President Marcos gave government employees a whopping 30 percent salary increase and flooded the economy with new money, thus raising the money supply to P6.8 billion in 1986. We observed that except in 1983, when the money supply grew by P9 billion, the average money supply growth for the period 1970-1986 was P1.4 billion only.

No wonder then that the National Government deficit for 1986 increased by P20.1 billion from that in 1985.

Nothing was wrong with the salary increase because employees needed the long-overdue financial incentive. However, the timing, while obviously politically favorable to Mr. Marcos, was economically disastrous.

Given the delicate role of monetary policy in the economy, we now ask the question: How do we ensure the independence of the proposed Monetary Authority?

Mr. President, independence is in the character of men. Whether we subordinate the monetary authority to government or make it autonomous, for as long as those who compose it do not have the will to resist pressures, we can never have a truly independent monetary authority.

The Central Bank Liabilities

The second big issue on the proposed monetary law is the Central Bank's liabilities which, as of February 8, 1993, stood at P543.5 billion. Considering that its estimated assets are P243.6 billion, its net liabilities then amount to P305.9 billion. Since the Central Bank is effectively bankrupt, it cannot efficiently perform its monetary policy-making. We are convinced up to this point that if we leave the liabilities with the Central Bank, the only way it can handle these liabilities, for instance, to finance the deposit claims of the National Government, is to print money or conduct open market operations. This approach threatens us with the specter of an inflation that will surely take us to a bottomless pit.

Mr. President, there are now several schemes to restructure these liabilities proposed by the Central Bank itself. We are told that of these schemes, Version II-A would have the effect of reducing the consolidated public sector deficit by significant amount. To be specific, the total reduction over the period 1993 to 1998 would be P84.3 billion.

We know, Mr. President, that the effect of the consolidated public sector deficit is the most desirable indicator because this influences our external deficit, inflation, domestic interest rates, and employment.

Version II-A proposes that the National Government take over and assume an old Central Bank which will in turn liquidate Central Bank liabilities of around P135 billion, covering P79 billion in foreign liabilities and P56 billion in open market instruments. Under the same scheme, the old Central Bank will also work on a reserve requirement which will decrease from 22 percent today to 12 percent in 1997 and finance an increase in National Government deficit through domestic borrowings; thus, yielding the highest reduction — P84.3 billion — in the consolidated public sector deficit among all the proposed schemes.

However, Mr. President, we cannot ignore the findings of the Philippine Institute of Development Studies (PIDS) that the best scheme is that which finances the deficit through external borrowings. The PIDS study generated the most desirable impact on employment for 1994 and 1995 and on the GNP, inflation and interest rate in 1995.

Mr. President, Senate Bill No. 1235 proposes that we leave the burden of managing and liquidating part of the Central Bank liabilities to the old Central Bank. However, there is no agreement yet as to which deficit financing scheme is the most desirable. The problem seems to be that our economists have yet to agree on an economic model that is acceptable to all.

Proposals to Consider

In the light of this development, there is wisdom in not including any financing scheme in the bill. As a transitory measure, however, it proposes that "the Bangko Sentral Monetary Board shall have primary responsibility for working out creative monetary and financial solutions to retire the Central Bank liabilities and losses at the least cost to the government." Might we not consider also the participation of concerned entities, like the Philippine Institute of Development Studies, the Asian Institute of Management, the University of the Philippines School of Economics, the Freedom from Debt Coalition, the two Houses of Congress, and respected individuals in business and trade union, in the refinement of the financing options?

Let me emphasize, Mr. President, that those who will finally manage the old Central Bank — if this structure should be approved — must consider among its priorities the determination of those responsible for bringing about the government's deficit. Thereafter, the culprits should be made accountable to ease the financial load of the government. It is for this reason that the Filipino people, through the Congress of the Philippines, be involved in the selection of those who will manage the liabilities.

By the same token, let us resolve the issue of an independent Central Monetary Authority by deciding that it should be insulated from political influences but bound and committed to the interest and welfare of the Filipino people whom it serves.

Thus, I fully support Senate Bill No. 1235's provision, that the appointment of the Central Bank Governor and the members of the Monetary Board be made subject to the confirmation of the Commission on Appointments. On the same premise, I also intend to submit at the appropriate time two propositions:

First, the composition of the Monetary Board should include two full-time professional economists, two from the private business, preferably heads of business federations, and one representing the workers. The Central Bankers should be persons with technical knowledge and objectivity. I am convinced that with a good mix of men in business, labor and the academe we could get Central Bankers who can — in the words of R. S. Sayers in his book *Central Banking After Bagehot* — "diagnose reasonably, accurately, act quickly, and maintain for themselves the desirable halfway house between Ivory Towers and Hurling Burly of the market place."

My second proposal is to make the heads of the National Economic and Development Authority, Department of Finance, and the Department of Trade and Industry sit in the Monetary Board as nonvoting, rather than voting members to better guard our monetary policy-making process from political influences.

Finally, I would like to say that the realization of our desire to achieve the best results in terms of economic growth and redistribution of resources, lower inflation, lower cost of money for investment and, consequently, higher employment depends to a large extent on the quality of our decision and on how quickly we make our decisions. To say that time has substantial economic cost is to be superfluous.

Thank you, Mr. President.

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

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1235

Senator Romulo. Mr. President, with the consent of the Sponsors, I move that we suspend consideration of Senate Bill No. 1235.

We shall resume with the other sponsorship speech tomorrow.

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

Senator Maceda. Mr. President.

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

Senator Maceda. I would just like to register my intention to interpellate at the proper time.

The Presiding Officer [Senator Aquino]. Please take note. How many sponsorship speeches will we have, Mr. Majority Leader?

Senator Romulo. There will be two other sponsorship speeches tomorrow, Mr. President.

After that, we will have the period of interpellations.

We have noted the reservation of Senator Maceda.

The Presiding Officer [Senator Aquino]. All right.

RESOLUTION ON SECOND READING
Senate Resolution No. 374 — RP-Canada
Development Agreement
(Continuation)

Senator Romulo. Mr. President, I move that we now resume consideration of Senate Resolution No. 374 on Committee Report No. 127, pertaining to the Agreement between the Philippines and Canada.

May I ask that the Sponsor, the Chairman of the Committee on Foreign Relations, Senator Ople, be recognized for the period of interpellations, if any.

The Presiding Officer [Senator Aquino]. Senator Ople is recognized.

Senator Ople. Thank you, Mr. President. I would like to make myself available for interpellations.

Senator Romulo. Mr. President, the Senate President Pro Tempore has asked that we give him one minute as he wishes to interpellate.

SUSPENSION OF THE SESSION

May I ask for a one-minute suspension of the session, Mr. President.

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

It was 6:31 p.m.

RESUMPTION OF THE SESSION

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

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

Senator Romulo. Mr. President, before we asked for a one-minute suspension of the session, the Chair had already recognized the Chairman of the Foreign Relations Committee in relation to Proposed Senate Resolution No. 374, which is a proposed agreement between the Philippines and Canada.

I ask that the Senate President Pro Tempore, Senator Guingona, be recognized for the interpellation.

The Presiding Officer [Senator Aquino]. Senator Guingona is recognized.

Senator Guingona. Just one or two questions, Mr. President, for clarification, if the distinguished Sponsor will yield.

Senator Ople. Very gladly, Mr. President.

Senator Romulo. Mr. President, before we consider the next bill, may I inform the Chamber that pursuant to the Rules of the Senate, the printed copies of Proposed Senate Resolution Nos. 371 and 374, together with the Agreements have been distributed and are now included in the black folder containing the bills and resolutions and treaties to be considered. Therefore, in accordance with the Rules, three days thereafter which would be on Thursday, we shall consider for Third Reading Senate Resolution Nos. 371 and 374 where we need two-thirds affirmative vote of this Chamber for nominal voting and approval.

The Presiding Officer [Senator Aquino]. Will not Wednesday be considered the third day? Thursday might be difficult.

Senator Romulo. Thursday will be considered a third day. We consider the calendar days, Mr. President.

The Presiding Officer [Senator Aquino]. Wednesday?

Senator Romulo. Thursday, Mr. President, because today is Monday.

The Presiding Officer [Senator Aquino]. We might not have a quorum on Thursday.

Senator Romulo. That is why I am making the announcement, Mr. President, so that we will have that quorum.

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

SUSPENSION OF THE SESSION

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

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

It was 6:19 p.m.

RESUMPTION OF THE SESSION

At 6:28 p.m., the session was resumed.

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

Senator Sotto. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Sotto is recognized.

MOTION OF SENATOR SOTTO
(Referral of Senate Resolution No. 428
to the Committee on Public Information)

Senator Sotto. Thank you, Mr. President.

With the consent of the Majority Leader, may I move: Proposed Senate Resolution No. 428 which was earlier referred to the Committee on Education, Culture and Sports be likewise referred to the Committee on Public Information.

The Presiding Officer [Senator Aquino]. Is there objection to the motion? [Silence] The Chair hears none; motion is approved.

Senator Sotto. Mr. President, may I manifest that Sen. Blas Ople is a coauthor of Senate Bill No. 1068.

The Presiding Officer [Senator Aquino]. Is there objection to the motion? [Silence] The Chair hears none; manifestation is noted.

The Majority Leader is recognized.

Senator Romulo. Mr. President, last week, we considered for Second Reading Senate Bill No. 1235, the New Central Bank Act, as reported out under Committee Report No. 138.

There were two sponsorship speeches by the Chairman of the Committee on Banks, Financial Institutions and Currencies, Senator Roco, and also by Senator Herrera.

We are now, Mr. President, in the period of interpellation and those who have reserved their right to interpellate are Senators Maceda, Guingona, Tafiada and Romulo.

BILL ON SECOND READING
Senate Bill No. 1235 — The New Central Bank Act
(Continuation)

Mr. President, I move that we resume consideration of Senate Bill No. 1235, the New Central Bank Act.

The Presiding Officer [Senator Aquino]. Resumption consideration of Senate Bill No. 1235 is now in order.

Senator Romulo. Mr. President, I move that the distinguished Gentleman from Camarines Sur and Bohol, the Chairman of the Committee on Banks, Financial Institutions and Currencies, Senator Roco, be recognized, and the distinguished Gentleman from Ilocos Sur, Manila, and Laguna, Senator Maceda to interpellate the Sponsor.

The Presiding Officer [Senator Aquino]. Senator Roco, as well as Senator Maceda, are recognized.

Senator Maceda. Mr. President, before I start, may I receive guidance from the Chair what is his pleasure as to how long I should stay on the Floor?

The Presiding Officer [Senator Aquino]. We request Senator Maceda again not to exceed 7:30 p.m. However, if the distinguished Gentleman will finish earlier, the Chair will call on Senators Guingona and Tañada, as the case may be; but if Senator Maceda does not finish by 7:30 p.m., he may continue tomorrow.

Senator Maceda. Thank you, Mr. President. I would just like to clarify. If I go by the watch that I am facing, I have seven-and-a-half hours of interpellation.

The Presiding Officer [Senator Aquino]. Will the distinguished Senator please go by the watch behind him, which is now 6:30 p.m.? So he has one hour to interpellate for today.

Senator Romulo. In fact, Mr. President, if we go by the hour that Senator Maceda is facing, it is more than seven-and-a-half hours because that is not moving.

Senator Maceda. Seriously then, Mr. President, I shall take up only about 20 or 25 minutes this time, with the reservation that, if necessary, I would like to reserve some time after the distinguished Majority Leader has interpellated because, after all, he is beside the distinguished Sponsor, the other expert on this measure, and whether I should propound more questions will depend on the interpellations that will transpire between the Majority Leader and the Sponsor.

The Presiding Officer [Senator Aquino]. Thank you. That is duly noted. Please proceed.

Senator Maceda. Will the distinguished Chairman of two major Committees of this Chamber, the Committee on Justice and Human Rights, and the Committee on Banks, Financial Institutions and Currencies — of course, I see no reason why he should not be allowed to continue holding two major Committees because he is very competent to handle the same as he had in the past — yield for a few questions?

Senator Roco. Mr. President, this Chairman of two Committees, who is not seeking any other committee chairmanship, will be very happy to yield to the distinguished Chairman of three major Committees.

Senator Maceda. Thank you very much, Mr. President, and if the distinguished Gentleman thinks that I can handle it, I am willing to receive another committee to make four committees. I will try my best to handle the same if it is so assigned to me.

Senator Roco. May we just put on record the following, Mr. President: In an effort to help the discussions, the staff has distributed an engrossed copy of Senate Bill No. 1235. This is purely for guidance of our distinguished Colleagues and the staff who would want to know which are the modifications from the old Central Bank law.

There is an engrossed copy which is dated May 21, 1993, and I hope, Mr. President, this can be of help to our Colleagues. I made sure that the distinguished Gentleman from Ilocos Sur, Laguna, and Manila had a copy earlier at the beginning of the session.

So with that, Mr. President, we hope we are ready to clarify.

Senator Maceda. Thank you very much, Mr. President, and distinguished Colleague.

For purposes of simplicity in procedure, I will limit myself today to three issues and on general principles. I would like to discuss, first, the issue of accountability, and second, the issue of transparency. And, of course, leaving the major points to the distinguished Majority Leader, I would also like to start briefly on the issue of liabilities.

Mr. President, that being said, I would like to say as a prefatory statement that I join the Sponsor in accepting that this establishment of an independent Central Monetary Authority is mandated by the Constitution, and there is therefore little quarrel with the basic thrust of his bill or the version of the bills as he has reported out.

Mr. President, would the Gentleman agree as a preliminary statement that in the strong economies, such as Germany, Japan and the United States, part of the feature that has stabilized their financial and monetary mechanisms is the fact that they have independent monetary authorities that continue in spite of changes in political leadership.

Senator Roco. One could say that, Mr. President.

Senator Maceda. Would it be correct to say that at this point in time, as a general statement, the reason we are discussing this bill here today is that the Central Bank has allowed itself to be interfered with politically, has allowed itself to be run by the political leadership and that, certainly, its monetary policies were adopted not on the basis of long-term financial stability, but on the basis of political expediency or political considerations?

Senator Roco. There have been many instances, as being mentioned by the Gentleman, Mr. President. So that is historically an accurate statement.

However, there have been other instances, Mr. President, when we saw the Governors of the Central Bank, by virtue of character, by virtue of training and by virtue of stature standing up to the political leadership. And they showed and manifested independence and good governance of the monetary policy.

Senator Maceda. As a specific matter, therefore, could we say, Mr. President, that a big portion of the losses that have been incurred by the Central Bank were precisely due to political interference or intervention?

Senator Roco. Even the Central Bank's presentation, Mr. President, shows that from 1973 to 1986, there were significant increases in the losses and liabilities of the Central Bank because of their perception, and subject to various political pressures. Because in their perception or, at least, we are told that that was their perception, it was supposed to be helpful to the country.

Senator Maceda. Mr. President, there has been a perception accepted by a great many that the Central Bank in the past had been an instrument of big business and, contrary to its mandate, its policies really conspired against the poor. Would that be a correct statement, Mr. President?

Senator Roco. One can also say that, Mr. President. But there will be instances when the Central Bank, in its effort to curb inflation and to control the money supply, is also serving the general population, whether rich or poor. But one can state that as a general observation, because it is the people who have money who will have greater access and who will have greater concern, maybe, and greater benefits from the monetary policy.

Senator Maceda. Mr. President, going to page 2, second paragraph of the engrossed copy, as the distinguished Sponsor has labeled it, I quote:

The primary objective of the Bangko Sentral is to maintain price stability conducive to a balanced and sustainable growth of the economy.

This we consider in the light of the deletion of the original wording which is: "(a) primarily to maintain internal and external monetary stability in the Philippines and to preserve the international value of the peso and the convertibility of the peso into other freely convertible currencies; and to foster monetary, credit and exchange conditions conducive to a balanced and sustainable growth of the economy."

Will the distinguished Sponsor please clarify whether the consolidation of these two subparagraphs (a) and (b) into the new wording, especially referring to the words "price stability," and in one of the earlier drafts, the question of the improvement of the economy was really the clear objective? Are we adopting here a

regime where the new Bangko Sentral or CMA is either retain even the nonmonetary responsibilities that the Central Bank present has gotten itself involved with and, therefore, the CMA or Bangko Sentral could be said to have, if not retain even more expanded functions?

I asked that in this light that my initial inclination — a must confess that I have not studied this in-depth — was real limit very clearly and to specify in a more specific and limited that the responsibilities of the Central Monetary Authority should concentrate on what is technically called, as stated in paragraph (a), "internal and external monetary stability," et cetera, should not be a broad all-inclusive term like "price stability" which includes many other things other than monetary stability the matter of the value and convertibility of the peso, et cetera

Senator Roco. May I explain, Mr. President. The words of the objective under the Central Bank Act was in response to situation in 1948. If we will recall, the Central Bank Act was approved in 1948, although it took effect only in 1949. In 1948 that was some three years after Independence and after the close of the Pacific War, there was concern, because even our peso had been pegged to the dollar and concern for monetary stability was in that context.

As I understand, the same sense is being transmitted by the term "price stability." In fact, the question of price stability has been one of the few unanimous portions of all. All our guests were unanimous in endorsing this objective of price stability. It was explained in this manner, Mr. President: First, it was supposed to mean that changes at the general price level or the domestic inflation rate are minimal; and second, such changes are not severely erratic.

As I understood from the economists, bankers, and even the labor freedom from debt coalition, all of them were unanimous in stating that this should be the primary objective of the monetary policy of the Bangko Sentral. That is the reason for the wording here, Mr. President.

Senator Maceda. Mr. President, I shall move on now to the issue of accountability. Many of our citizens — the House of Representatives included — have long been convinced that our monetary authorities, from the Central Bank to the Department of Finance, have been under the "control" of the International Monetary Fund. That has been documented in so many papers, books, and articles.

Perusing — and I use that advisedly — the bill, I do not see how to find any setup in this bill which will now give us and our people some assurance that the new Bangko Sentral will no longer be under the control of the International Monetary Fund. As a subsidiary question, are there any provisions in this bill — may I

I just missed them — that assure us of an effective mechanism of accountability to our people outside of the routine provision to submit periodic reports to Congress, which sometimes we do not even read, without sacrificing the political autonomy and independence of this new Bangko Sentral?

Senator Roco. That is a very difficult question to answer, Mr. President. Let me try to proceed in this manner. As I understand it, the International Monetary Fund is a product of international agreements. In the course of these international agreements, the Philippines subscribed and joined the International Monetary Fund for the simple reason that no civilized country today can do without being a member of the International Monetary Fund.

The statements that the monetary policy and the monetary leaders of the country are under the control of the IMF may be more an observation on the character of people rather than on the law itself. What I understand from the interrelationship between the IMF and the Philippine monetary policy is that the Philippines, since we seem to have restructuring problems with our foreign debt, submits memoranda that they will perform certain undertakings. It is this undertaking that is supposed to be utilized or exploited by the IMF in keeping us within our economic targets. I do not know whether, under such an international law arrangement, that amounts to control in the sense that we use "control" in Administrative Law, the capacity to substitute judgment of our Philippine monetary policies with that of the IMF. I do appreciate that in the international context — and I have no love lost for the IMF — it seems to be a difficult situation for monetary leaders who are in debt. We lost the opportunity in 1986 for rejecting, or repudiating, or asking for the total condonation of our debts the way Poland availed of the opportunity when the Solidarity regained democracy for Poland. We cannot keep crying over spilled milk. But that is the situation, Mr. President, and there are influences by the IMF.

I am personally not clear on what the World Bank has to do with that. But the World Bank also hovers around the vicinity, and I apparently also have inputs in some of the monetary policies that are being discussed. It seems to be one of consultancy, one of mutual sharing of information, and one of sharing of data base. So that is the extent of the relationship, as I understand it now.

For the second part of the question, Mr. President: What are the features of the bill that may assure accountability?

First, all the members of the Monetary Board are subject to confirmation by the Commission on Appointments. We had a constitutional problem because those subject to confirmation by the Commission on Appointments are enumerated, and, apparently, our CA has been following a restrictive rule. Because of that, Mr. President, that is the reason Governor Cuisia has never quite been submitted to the CA even before.

What we have done under the proposed bill is to give Monetary Board members and the Governor of the Central Bank the rank of Cabinet. It is a way of going around — and let me be very frank about it — trying to get around the prohibition of the Constitution. I am hoping the Supreme Court, in its better judgment, will appreciate that there is need for the Commission on Appointments to examine the capacity, competence, probity and even patriotism because the Constitution requires that our Monetary Board members be patriotic. Somebody must ascertain those qualifications.

Second, aside from confirmation by the CA, Mr. President, there is also the high diligence, the extraordinary diligence we impose upon the Monetary Board members in their action. The best way to explain this is, all of us are bound by normal prudent rules. We are supposed to act like good fathers of a family, whatever that means in law or under normal understanding. But in some instances, we are required to have extraordinary diligence, if one is a pilot, because there are lives involved; if one is a ship captain, there is extraordinary diligence. In this particular case, we now impose extraordinary diligence upon the Monetary Board, with the expectation that this extraordinary diligence will make them work harder and study more diligently.

In addition to that, Mr. President, in the report of the present Central Bank — and I am working on them — the Profit and Loss Statement is not shown until the end of the year. The Balance Sheet is shown every month. But here we even require already the Profit and Loss Statement, I think, quarterly or every 90 days. I am not sure of the period.

So, there are CA confirmation, extraordinary diligence, regular reporting, and very detailed, and an analysis even of what economists refer to as the effect of the money aggregate, et cetera, and we can give the Gentleman all the economic jargon but it will not help us to understand. So, those are among the features that try to have accountability, Mr. President.

Finally, Mr. President, there is an effort to have full-time Monetary Board members. So that out of the seven, while two are in the government — and presumably they are full-time by constitutional mandate — there are five private Monetary Board members, three of them shall be full-time, and two of them part-time, but they have certain restrictions in their activities. The full-time members can only engage in what the lawyers call eleemosynary activities. I wanted to mention it in the hope that Ka Blas Ople is here. But it merely means charitable activities.

So, those are some of the features. There are others. The very nature and the definition of how to exercise monetary control, how to govern the various banks, how to supervise the various banks. The details are largely part of the old Central Bank. That is why we even took pains to make it single-spaced so that we, in

the Senate, will not try to reinvent central banking in trying to approve this New Central Bank Act.

Senator Maceda. Mr. President, let me restate part of the question in some other way. I think we are agreed that this new Bangko Sentral, to solve the problems that was caused by the present Central Bank, should be, as mandated by the Constitution, an independent Central Monetary Authority, and it should be independent from domestic, political interference, free from political intervention from the President, the Cabinet or the Members of Congress if possible.

To begin with, the Gentleman is saying that we have to accept that we cannot say in specific provisions that it should be independent from international political intervention.

Senator Roco. I did not say that, Mr. President. I merely mentioned the international law context of our commitments as a member of the International Monetary Fund. There are normal balances of rights and obligations in international treaties. I am no expert on the Bretton Woods Agreement, and I am no expert on the modifications that now allow for a common basket of currency to be used.

But that is how I understand it. It is just part of being international. Can they intervene? If allowed by those who have no gull or character to make them intervene, of course, no matter what the law says, even if we put here that they are absolutely independent, one cannot close his eyes to the fact that we are part of the international community.

In the case of monetary policy, we are automatically tied up with foreign currency because it is useless to have a peso that is not related with any other foreign currency. We cannot use it for any other purpose. So it is part and parcel of monetary policy that we belong to the international club or to the international agreement that allows respect for our legal tender.

Senator Maceda. Again, Mr. President, pleading guilty to the fact that I have not more than perused this bill, referring initially to that paragraph on the primary objective on page 2, may I request that we move forward to page 44 in relation with that, to Section 86, entitled "Guiding principles".

Senator Roco. Are we looking at the engrossed copy?

Senator Maceda. Yes, Mr. President. I read, and this is a one-paragraph Section 86.

Sec. 86. The rediscounts, discounts, loans and advances which the Bangko Sentral is authorized to extend to banking institutions under the provisions of the present article of this Act shall be used to influence the volume, cost, availability and character of credit consistent with the objective of price stability.

On page 2, it states that the primary objective is to main price stability and on page 44, in effect, that is reiterated with one-paragraph statement of guiding principles consistent with objective of price stability. I am afraid, Mr. President, that I had to plead guilty. From what I have read so far, still I am not fully informed or educated on just exactly what this objective of price stability is. I do not see any definition in the bill. The "guiding principles" is not going to help. Directly, I could see that, may it could be argued that there are some indirect specific limitations and restrictions.

Did the Committee consider that besides defining the word "price stability" maybe, a 30-point paragraph of what the Bangko Sentral can do or cannot do in terms of price stability, in terms I do not know any specific example right now, but any example where, in case there is a conflict between the interest of the banks and the interest of the poor in this particular case, then Bangko Sentral must favor the poor and only so much interest only so much rediscount, only so much inflation rate, only so much *de facto* devaluation of the peso or only so much a-b-c monetary factors should be allowed to the Monetary Board prescribe?

Meaning to say, are we not again giving this independence Bangko Sentral — we agree with that that they should be independent as persons, as officers — a *carte blanche* to do almost everything, while on the other hand, as I mentioned earlier, the only provision on accountability is the mention of mandatory reports to Congress which, in practice, has never been an effective measure of holding the reporting agency accountable?

If Congress disagrees with the policies or with the reports there is not much it could do except to shout here in this Privileged Hour and assail the new Bangko Sentral Chairman or Governor whatever his name. We may shout here and issue press releases and make recommendations, and they will only say, "*Kayo ay nagsabing* we should be independent of you. *Kaya hindi na dapat kayong makialam.*"

This is the whole basic question that, to begin with, I want to understand. If I read it with the limited economic and monetary background that I have, what is clear is that the Gentleman saying that the new Bangko Sentral should have as its objective price stability.

Kapag ang bumasa diyan ay ang mga namimili sa palengke ang itatanong nila ay, "Ano ba ang nasa bill na ito na maisisigur na ang price stability ng galunggong ay ma-assure?"

I do not know if that is what is meant by this primary objective of price stability. But the point is, there is no definition. I do not see a clear set of guiding principles, much less a clear set of limitations, objectives or targets so that we can be sure that this

main objective of price stability assures or will result in the improvement of the lives of our poor people, 70 percent of our people, especially in the rural areas.

Senator Roco. Mr. President, maybe it will be simpler if we understand, as I am made to understand, that "price stability" refers to the effort to control domestic inflation. Although it is not exactly the same, it is really the control of domestic inflation. So long as we can maintain the relative values of the peso as a legal tender and as a currency, then the industry, commerce, manufacturing and all the active economic actors can plan and project their activity.

If we have a very erratic movement in the inflation rate, then our projection for the year can be shut. And so instead of expanding for the year, if one is a corporation, one may have to hold up or retrench and that is not good supposedly for economic development. I am taking the word of the economists, believe me. I am just inadequate in economic theory as the good Gentleman from Ilocos Sur.

If we concentrate on the control of inflation, maybe, we can try to understand Section 76. By the way, the number is wrong but in the sequence, it is correct.

Section 76 — and I refer now to Section 76 of the correct text — it says: "The rediscounts," — meaning to say, when there are paper borrowings that are rediscounted — "or discounts, loans and advances which the Bangko Sentral is authorized to extend to banking institutions" — meaning to say, if the Bangko Sentral lends money or rediscounts the paper of the rural banks or rediscounts the paper of the commercial banks — "under the provisions of the present article of this Act shall be used to influence the volume of credit."

We have, Mr. President, the volume of money. If we print so much money, then the value of the peso is supposed to go down. Therefore, to that extent we can have an erratic inflation rate. And that is supposed to be controlled by the Central Bank and the Monetary Authority so that they print only so much money as not to affect too much the value.

But one other source of money is the credit. When they keep lending out — they are only saying, Mr. President, in this section and it looks very much like the old section anyway — and in doing this rediscounting, discounting, loans or advances, the Bangko Sentral shall be conscious that this activity shall be used to influence the volume of credit consistent with the objective of price stability or control of domestic inflation. So, in that sense, it becomes simpler. We cannot therefore, probably, loan an unlimited amount of money. We cannot issue paper in lieu of money, which floods the market because then it will affect again

the inflation rate of the peso. That is how I understand in this "Guiding principles."

Senator Maceda. Mr. President, just so that the other Members can follow. Just using this sequence, it looks like this Section 86 is wrong. This is really now Section 76.

Mr. President, I was just pointing out that this Section 86 I was reading is really Section 76.

Senator Roco. Yes, it is really Section 76.

Senator Maceda. Anyway, Mr. President, it is 7:05 p.m. by the Chair's watch. It is still twelve o'clock by my watch. I do not know. What is the pleasure of the distinguished Presiding Officer?

The Presiding Officer [Senator Aquino]. The Gentleman may continue until 7:30 p.m., if he wishes, or he can continue tomorrow to give Senator Guingona a chance to ask some preliminary questions.

Senator Maceda. No, I will just ask one question and finish and I will then defer until after Senator Romulo.

The Presiding Officer [Senator Aquino]. That is fine.

Senator Maceda. I will just ask one long question.

Mr. President, if the Gentleman will just favor me with listening. These are just about four very short paragraphs.

One complaint that has repeatedly been raised against both the Central Bank and the Department of Finance concerns transparency of transactions and policy making. The Gentleman may recall that at one time, no one knew exactly what our outstanding national debt was. Senator Romulo will be the first one to tell him that there was great difficulty documenting behest loans and it was always a constant challenge and difficulty to get information of any sort from the Central Bank. Therefore, we ask: Will not the new CMA expressly granted autonomy, present us with a more problematic situation on the matter of transparency? What assurance is there in the bill that the policy of transparency shall be strictly adhered to? Monetary policies — as we have discussed in passing — already have immediate impact on the lives of our people, especially the poor. Is it not important that all of us are constantly apprised of what is going on at the CMA?

And where we have opted to institute a regime — as I said earlier — where we are making this CMA very independent of the political leadership, including the Congress, should it not therefore be more urgently desired that there should be more provisions in this bill which mandate the Central Bank to be quite transparent

and open and not use the usual excuse that, "We cannot give you that information because it will affect the banks, it will affect the exchange rate, it will affect the stability."

By hindsight, citing Congressman Joker Arroyo among others, he said that even in this Westinghouse bill, the person to blame is not Doctor Perfecto Fernandez, but Governor Jobo Fernandez, who was really secretly involved, so to speak, or without transparency involved in having inserted the restructuring of the Bataan Nuclear Power Plant debt into the 1986-1987 Restructuring Agreement as an easy example.

They are so independent, and that is really our intention that they do not have to listen to us, but at the same time, how can we assure that even if they do not listen to us they will, at least, allow us to find out what they are doing?

Senator Roco. May I answer, Mr. President. That is a multiplicity of questions. I will try to answer them in some order.

First, Mr. President, the question of adherence to law cannot be guaranteed by the law. No matter what we pass here, we cannot guarantee in the law that the Executive or the people will adhere to the law. I mean, that goes without saying, we prohibit murder, but murder is committed. But that is exactly why it is prohibited so that it will not be done. So that then we can punish the murderers.

But the lack of adherence to a law, Mr. President, does not argue against a law. That is why laws are made so that there will be an effort to attempt, so that there will be a measure or a guideline for the Executive in pursuing and applying the law.

Adherence, therefore, Mr. President, I concede, and I confess cannot be guaranteed by this proposed bill, in the same way that we cannot guarantee adherence even to the Constitution. Therefore, we must accept, as fact, that if people intend to violate the law, that is too bad; but we, therefore, must rely on the Executive and the leadership, the legislators, the local government officials to show the example in adherence to the law. That is insofar as the question of: Can we guarantee adherence to the law? The answer is: No, we cannot guarantee adherence to the law.

We now look at the question of lack of transparency. In the old Central Bank Act, Mr. President, there is a greater possibility of lack of transparency for two reasons: The reporting requirements were not as complete or as just detailed as required now by the present law, and there is a full section on reporting requirements; and second, under the old Central Bank Act as amended, there were the so-called "suspense accounts" — the Monetary Adjustment Account. They were suspense accounts, they were costs, and yet, they were called "suspense" because we

were literally in suspense as to what was going on. And when we look at the suspense account, lo and behold, that they are costs assets but in reality, they are not real assets. We have deleted proposed to delete the Monetary Adjustment Account. The second suspense account, Mr. President, that gave a hiding place for the old Central Bank is the Exchange Stabilization Adjustment Account which is also proposed to be deleted. So, for those reasons, in terms of pure draftmanship, in terms of the bill, the additional reason to expect that greater transparency can be achieved.

The third question, Mr. President, is if we give them greater autonomy, then the more problems we shall have. Of course, if we give them greater autonomy, there will be more problems if they are irresponsible. But we have set up a machinery which hopefully, will provide a selection of Monetary Board members with a composition that will make them more responsible. When the greater autonomy succeeds, nobody will complain. When the Bundes Bank succeeds, nobody complains. But nobody accuses the Central Bank of Germany of lacking independence simply because they have to come to Congress to ask for shortfall money. Because the German Central Bank is evidently the most independent, but insofar as the books I have seen are concerned they have to come to Congress. That is the nice little provision that we have added here.

The Central Bank, as a body corporate, must operate under its own budget in the same way that we do not look at the budget of the PNB. We do not look at the budget of the GSIS, I think. Although we can inquire. The government corporations can inquire, the Blue Ribbon Committee can inquire, the Finance Committee can inquire, and other Committees can inquire.

In this provision, the integrity of the Central Bank as a body corporate will have to be preserved because we cannot run the budget of the Central Bank. But the more important provision here, Mr. President, is if the new Bangko Sentral cannot sufficiently pay for the old liabilities, they must come to Congress and ask for the shortfall.

In other words, Mr. President, if they do not want us to bother them during budget time, they will have to produce more profit so that they can absorb their own old liabilities. We are creating maybe, a younger brother to take care of the elder brother who fell into debt. The new Monetary Board will have motivation to produce better results so that they will not have to face Senator Maceda or Senator Tañada at the budget hearings. They must come to Congress because, I think it was Senator Tañada who said that we want an independent Central Bank or Central Monetary Authority but they cannot be independent of the people. They cannot be independent of the Republic. And the only way they can, therefore, have accountability that is direct is by being accountable to the elected representatives of the people.

So, greater autonomy, Mr. President, is balanced as far as the liabilities are concerned. Those who would want to study more carefully would want to look at Section 127. Sections 126 and 127 spell that out.

There was mention of shuffling of accounts. It is true, Mr. President, it is very difficult, and I concede that initially. I had a bias against what I felt was an effort to becloud information.

Eventually, Mr. President, I appreciated the effort at candor of our Finance and Monetary officials. By the way, Finance, we are removing altogether. We do not want the Department of Finance or the Finance Secretary to be meddling with the Monetary Board, short of saying that because I could not find the polite way of saying a department should be excluded but maybe the good Gentleman can help me later on. Finance is supposed to have no participation in the Monetary Board. But when they were explaining to me the various details and figures, it is very difficult to understand them.

I have the Balance Sheet as of 1992, for instance, and maybe I should distribute this also to all our Colleagues. The composition is very simple. It consists of one page but each line can be contained in volumes. And we just need the patience to look through them. The Central Bank, as far as I recall even in Congress, makes a report every quarter. Well, for those who are curious enough and want to look at all these reports, by all means they can look at the reports. The Senate President has reports every quarter. It eventually gets to the Chairman of the Banks Committee, and I think it is available in the *Record*.

Anybody who has the curiosity, the patience and the stamina to look at these figures can look at them.

I think, it is not, therefore, unwillingness, but the Finance people have a peculiar bent; they are always bargaining. As we see, .001 percent can mean significant things, and so they are always trying to get an angle, and that is what I have noticed. It may not be malicious, Mr. President, but they do tend to mislead.

That is why here, we do not only prohibit false statements, we also prohibit misleading statements. That is one of the innovations in the administrative supervision. We are watchful now not only for what is patently false, but even if they are all true, if arranged in a certain fashion as to lead us to a wrong conclusion, misleading statements of banks and finance people will now be punishable under this bill.

I am sorry it had to be a mismatch, Mr. President, but after all, the Gentleman read four paragraphs that I tried to coordinate in my mind as we went along.

Senator Maceda. Let me just make one final reaction to that very enlightening answer.

The present situation is such that we are an independent country, but once we go to the IMF for help — let us say, we apply for a restructuring loan or we apply for a stabilization program— then they say, “Fine, but you have to do one, two, three, four, five. You have to limit your deficit to P25 billion, you have to bring down the inflation rate to so much. Now, you have to increase your taxes, you have to increase your NAPOCOR rates, you have to increase your gasoline rates, et cetera.”

Will the Gentleman and his staff study that if we are willing to allow that kind of international political intervention, as I call it, and we are willing to accept restrictions that are so directly and specifically concerned with purely domestic policies, a similar scheme be put into the bill?

Let us say, for example, “All right, if you have a shortfall, you come to Congress. Fine. But once we give you a shortfall financing, for the next five years, your annual budget must be submitted to Congress for approval.”

Or we say, “If you want to go over a deficit that is more than three percent of GDP or GNP, whatever it is, then you must come to Congress if you want the deficit to go higher than that or if you want precisely to plan a higher deficit.”

Would it be possible? If we are willing to accept this kind of impositions, interventions or interference by the IMF in exchange for certain financing, certain funds, certain loans and certain programs, that precisely is what I am looking for — that we have certain guidelines and limitations. Over and above these limitations, they have to go to Congress for approval or if not for approval, they have to go to Congress for shortfall or for some form of financing. Then from the very beginning, as the Gentleman said, they will be well-informed and they will try hard not to go to Congress. It is already in the law.

Minsan sumobra ang gastos ninyo. Minsan nagkaluku-luko na naman. Minsan gusto ninyong humiram ng treasury bills at 44 percent. Hindi puwede iyan, pupunta muna kayo sa Congress at kung kukuha kayo ng kuwarta para takpan iyong inyong kalokohan o iyong inyong inefficiency, hindi na kami papayag na maulit iyan. Once you come to us then for the next five years, you have to submit your budget to us for approval and you have to do this, you have to do that and you have to do this.

So that we are assured na maulit uli iyong mga dahilan kung bakit, nawalan, kinapos, kinulang na naman sila ng pera at pupunta na naman sila sa atin.

Could the staff of the Gentleman study a possibility of a scheme like that as a check against the excesses, against the inefficiencies, and against the corruption or conflict of interest, examples, that past CB officials have been known to have engaged in?

Senator Roco. We will do so, Mr. President, so long as we are one in the mandate of the Constitution that what we are trying to create, what we are trying to establish is an independent Central Monetary Authority. We would hesitate to create a total dependence upon us.

We are also open, Mr. President, at the appropriate time to consider, as in fact, there were suggestions in some of the bills, statement about less dependence on international agencies. Although, conceptually, I have a very difficult time reconciling it with what I know of Public International Law. But I am certainly willing to accept any help from anybody who can clarify it so that I could understand. But I will certainly ask my staff and economists with us to find a balancing provision that may satisfy the Gentleman if, at all, that is possible.

Senator Maceda. Thank you very much, Mr. President. As I said, I will reserve until after the other expert, Senator Alberto Romulo, speaks on this matter.

Senator Roco. Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. Thank you, Senator Maceda.

The Majority Leader is recognized.

Senator Romulo. Mr. President, tomorrow, we shall resume consideration of this bill, and the following have reserved their right to interpellate: Senators Guingona, Tañada, Shahani, Gonzales, Lina, and Romulo.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1235

In the meantime, Mr. President, I move that we suspend consideration of Senate Bill No. 1235 under Committee Report No. 138, the Central Monetary Authority.

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

Senator Romulo. Mr. President, may I ask the Secretary to read the additional Reference of Business.

The Presiding Officer [Senator Aquino]. The Secretary may read the additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

COMMITTEE REPORT

The Secretary. Committee Report No. 147 submitted by the Committee on Ways and Means on House Bill No. 8308 introduced by Congressman Javier, et al., entitled

AN ACT AMENDING SECTION 142 OF THE NATIONAL INTERNATIONAL REVENUE CODE, AS AMENDED,

recommending its approval with amendments, taking into consideration Senate Bill Nos. 1207, 1027, 1222 and Proposed Senate Resolution No. 291.

Sponsors: Senators Herrera, Ople, Romulo, Sotto II Macapagal, Tatad, and Revilla

The Presiding Officer [Senator Aquino]. To the Calendar for Ordinary Business.

SPECIAL ORDERS

Senator Romulo. Mr. President, I move that we transfer to the Calendar for Special Orders Senate Bill No. 715, under Committee Report No. 71, entitled

AN ACT TO PROMOTE THE DEVELOPMENT OF THE MANUFACTURING ENGINEERING INDUSTRY.

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

Senator Romulo. I also move that we transfer to the Calendar for Special Orders Committee Report No. 147 on House Bill No. 8308, entitled

AN ACT AMENDING SECTION 142 OF THE NATIONAL INTERNAL REVENUE CODE, AS AMENDED.

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

Senator Romulo. Mr. President, may I also manifest that Senator Anna Dominique Coseteng be made coauthor of proposed Senate Resolution No. 417 with the permission and consent of its principal author, Senator Tañada.

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

May 25, 1993

The Presiding Officer [Senator Aquino]. There are two more interpellators. Aside from Senator Romulo, who is the other one?

Senator Romulo. Senator Maceda, Mr. President, and there is another one. So there are three more interpellators.

The Presiding Officer [Senator Aquino]. Who is the third interpellator?

Senator Romulo. He is not here, Mr. President. I ask that I be given the opportunity to give it to the Chair after I check it.

BILL ON SECOND READING

Senate Bill No. 1235 — The New Central Bank Act (Continuation)

Senator Romulo. Mr. President, so that we do not lose time, I move that we resume consideration of Senate Bill No. 1235 as reported out under Committee Report No. 138.

The Presiding Officer [Senator Aquino]. Resumption of consideration of Senate Bill No. 1235 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations. I ask that the Sponsor, the distinguished Gentleman from Camarines Sur and Bohol, Senator Roco, be recognized, and to interpellate, the distinguished Gentleman from Mindanao, the Senate President Pro Tempore, Senator Teofisto Guingona.

The Presiding Officer [Senator Aquino]. Senator Roco and Senator Guingona are recognized.

Senator Roco. Mr. President, the way we are going, I will need a librarian just to answer the questions of the distinguished Gentleman from Mindanao.

Senator Guingona. Mr. President, will the distinguished Sponsor yield for some questions?

Senator Roco. Happily, Mr. President.

Senator Guingona. First of all, I would like to congratulate the distinguished Gentleman from Bicol and Bohol for the consolidated version he has presented. And my position here is to offer some constructive inputs, if it is acceptable to the Gentleman. That is the spirit of the interpellation that I wish to pursue.

First of all, may I ask the distinguished Sponsor. Under the proposed measure, we will have two entities: first, the old Central Bank and second, the new Bangko Sentral. Is that correct?

Senator Roco. Yes, Mr. President, that is correct.

Senator Guingona. And the old Central Bank will be run by officers designated by a committee. Is that correct?

Senator Roco. Designated by the new Monetary Board of the BSP, the Bangko Sentral ng Pilipinas. I think, under Section 126, the reorganization is allowed. So the new Monetary Board can designate who will stay there. The old Central Bank will then act until all the liabilities are liquidated over a period of time.

Senator Guingona. The proposed measure, Mr. President, in the transitory provisions, says that the new Bangko Sentral, in representation of the Central Bank of the Philippines, and the Secretary of Finance, in representation of the government, shall determine the assets and liabilities of the Central Bank which may be transferred to or assumed by the Bangko Sentral. May we know what are the assets and liabilities of the present Central Bank?

Senator Roco. Yes, Mr. President. Let me just get the Statement of Condition as of December 31, 1992 of the Central Bank of the Philippines. Maybe I can make a copy of this and give it to the Gentleman if he does not have a copy yet. I suspect he has a copy of it.

Senator Guingona. No. I am sorry, I do not have a copy.

Senator Roco. Let me just run through. The assets refer to the International Reserve: gold is P23 billion; holdings of special drawing rights is P13 million; due from foreign banks is P33 billion; foreign currency and investments is P72 billion; accrued interest is P215 million.

Among these assets, what would be interesting to the Gentleman, Mr. President, aside from the foreign exchange receivables, et cetera, is Monetary Adjustment Account of P65 billion — this is as of December 1992 — Exchange Stabilization Adjustment Account of P86.8 billion, and Revaluation of International Reserve of P163 billion, and then bank premises and other fixed assets, including their building is something like P19 billion. Those are the assets.

The liabilities, which are indubitable, are the currency issues: notes and coins which amount to P88 billion; deposits of the banks and savings and loan associations of P65 billion; the Treasurer of the Philippines, P107 billion — there is a drop from August 1992 in the deposit of the National Government, I think, roughly from P130 billion down to P107 billion as of December — due to foreign financial institutions, P41 billion; Foreign currency deposits, P46 billion; others — this includes the blocked pesos, Mr. President — P32 billion; and then loans payables, other liabilities. We have assets worth P586 billion, and an equivalent liability with capital accounts amounting to P2.5 billion.

I will have a copy made by the staff.

Senator Guingona. In yesterday's interpellation, or I think it was in the course of the Gentleman's sponsorship speech, I heard him say that there are assets presently lodged as assets in the Central Bank which are not really assets, but which are considered as liabilities and losses. Would that be a correct statement?

Senator Roco. Yes, Mr. President. What I did say is, I used the term "ampaw assets." The Monetary Adjustment Account is supposed to be an asset, but when we look at its definition, they are really all expenses. The Exchange Stabilization Adjustment Account (ESAA) is also considered as an "ampaw asset." And that is a lot of money between the two of them. The two "ampaw assets" amount to P65 billion plus P86 billion or P161 billion. That is on top of P163 billion of the Revaluation of International Reserve, which is also an "ampaw asset". Because it goes up and down depending on the fluctuation of the peso value vis-a-vis the dollar.

Senator Guingona. That is P151 billion.

Senator Roco. It was P163 billion as of December. So, P163 billion plus P161 billion, we are talking really of P320 billion something.

Senator Guingona. So the cut-off date would be December 1992.

Senator Roco. Mr. President, we are relying on the Balance Sheet, the Assets and Liabilities, given to us by the Central Bank as of December. There is available also, I think, as of March or April — we might even be able to get — but just for purposes of discussion, I would suggest that we stop at December. It could not be very radically different.

Senator Guingona. In the consideration of the transfer of assets and liabilities, how will these "ampaw assets" now be considered? Will they still be "ampaw"? Or will they be relegated to their true nature and true names?

Senator Roco. This is now what the Monetary Board will be solving. We will be paying them P100,000.00 each and I submit that that probably is even underpaid. But they will figure out the various combinations so that we can have a viable Bangko Sentral and an old Central Bank that can be cleaned up slowly.

My concept, Mr. President, is to delegate to a group with primary responsibility and competence, precisely, the selections. Let me just state that we are totally aware and totally familiar with ten, maybe, 14 and yesterday I had another one from a certain

Roxas, recommending various combinations. My concern in not selecting one of them is because we shall then have tremendous details in a law that is very iffy and that may require changes. It seems to us more prudent to make the Monetary Board precisely address those problems, but we will give them the instruments, the power, greater capital and greater flexibility to address all these.

In doing that, Mr. President, we cannot be accused of undue delegation. Because Section 127 of the proposed bill gives guidelines on how the Monetary Board may want to reposition the assets and liabilities to make the Bangko Sentral viable and to make the old Central Bank a manageable entity in its liquidation of assets.

Senator Guingona. I appreciate the explanation of the distinguished Sponsor. But should, for monetary reasons or for other reasons, the Monetary Board decide to continue these items as assets, would that still be within the purview of delegated mandate?

Senator Roco. No more. The Monetary Adjustment Account is expressly repealed. The ESAA is expressly repealed. It cannot continue even under the new Bangko Sentral. So it is now fossilized. It is preserved in concrete and for those, like our Colleague, Senator Romulo, for instance, who may want to go through them with a fine-toothed comb, it will be fossilized in the books of the old Central Bank and there will be time to look at all of them, if we so desire. So, the suspense accounts are now deleted, except for the revaluation account which, I guess, must remain.

Senator Guingona. Why then should we not spell out here which accounts will be retained by the Central Bank?

Senator Roco. There are certain liabilities that are spelled out, Mr. President. Liabilities, for instance, that the Bangko Sentral will have to assume — that is on page 58 — "shall include liability for notes and coins in circulation as of the effective date of this Act."

Then, the other guidelines refer to Bangko Sentral Monetary Board — "working out creative monetary and financial solutions to retire the Central Bank liabilities at the least cost to the government."

And on the assets and liabilities transfer, it shall be limited in an amount that will enable the Bangko Sentral to perform its responsibilities adequately and operate on a viable basis.

So it will not necessarily enhance the picture of the new Bangko Sentral, but they shall be operating with a capacity to profit based on clean Balance Sheet.

Senator Guingona. So, in effect, because of the provisions cited that the Monetary Adjustment Account and the Exchange Stabilization Adjustment Account will be phased out, these two accounts will, at least, be retained by the Central Bank.

Senator Roco. The old Central Bank — maybe, I should call attention to Section 45, and if the good Gentleman will be so kind as to turn to page 29 of the bill...

Senator Guingona. Page 29.

Senator Roco. Page 29, Section 45.

By the way, may we ask if the Gentleman has received his engrossed copy. All the Senators were given engrossed copies on their tables yesterday.

Senator Guingona. No. I am sorry....

Senator Roco. It was received by somebody in the staff of the good Senator. The engrossed copy shows the amendments — because this was, in fact, done at the instance of the Senator. There is a "received copy." Somebody received it, but it may not have been turned over to the Senator.

This will be helpful for staff analysis. It shows what are the provisions that are old; it shows what provisions are modified and in what manner. We do have an analysis of the interrelationship between the 1, 2, 3, 5 and the bill also of the Gentleman from Mindanao.

Senator Guingona. So, on what page?

Senator Roco. May we now look at Section 45, Mr. President,

SEC. 45. *Suspense Accounts.* — Sections 43 and 43-A of Republic Act No. 265, as amended, creating the Monetary Adjustment Account (MAA) and the Exchange Stabilization Adjustment Account (ESAA), respectively, are hereby repealed. Amounts outstanding as of the date of the effectivity of this Act based on these accounts shall continue to be for the account of the old Central Bank and shall be governed by the transitory provisions of this Act.

We touched on them initially.

The Revaluation of International Reserve (RIR) account as of the effective date of this Act of the old Central Bank shall continue to be for the account of the same entity — referring to the old Central Bank — and shall be governed by the provisions of Section 44 of Republic Act No. 265, as amended, until otherwise provided for in accordance with the transitory provisions of this Act.

What will happen then, Mr. President? MAA and the ESAA will become fossilized with the old Central Bank for cleaning up. The RIR will be cleaned up in accordance with the terms of Republic Act No. 265, because they talk of surplus. They have a formula for surplus, and I do not want to modify it because if anybody is owed anything arising from the Revaluation Account, they knew the limits of repayment if they expect to be repaid for something in the RIR, and I want to preserve the law. We do not want the government to be at any particular disadvantage. We must have an account for revaluation, but the new Bangko Sentral will begin on a very healthy basis and hopefully, they shall have learned their lessons on how better to avoid accumulating losses under the RIR.

Senator Guingona. The two accounts — the Exchange Stabilization Adjustment Account and the Monetary Adjustment Account — will be fossilized, and they are referred to as assets, but in actuality, they are liabilities and losses. Are they not?

Senator Roco. I do not know whether they will be classified as such by accountants. That is why I am also wary of calling them liabilities. But they have definitions. If we make the law speak for itself, we can collectively make a judgment as to whether it really refers to an asset or a liability. Let me just refer to the law, Mr. President.

This is very complex, Mr. President, so if the Gentleman will bear with me Section 43 refers to extraordinary expenses of currency issue and monetary stabilization. It says: The Monetary Board may, whenever it deems advisable, exclude from the computation of the annual profits and losses at any given fiscal year all or part of the following extraordinary expenses incurred during that year:

Extraordinary costs of printing notes or of minting coins. Is that an asset or a liability? If it is extraordinary costs, it does not look like an asset to me, but it is called an asset in the Balance Sheet.

Extraordinary expenditures arising from the issue and service of the evidence of indebtedness are referred to in Section 98. We will not even go there. But if they are extraordinary expenditures, the Gentleman can have cogent reasons for calling it a liability. But it is called an asset.

Interests paid on bank reserves which exceed 50 percent of bank deposits in conformity with the provisions of another section.

And interests paid on deposits maintained with the Central Bank in accordance with another provision. It also says: Other expenses which the Monetary Board may specify or declare as extraordinary.

So, expenses and other extraordinary expenses as the Monetary Board may decide can fall under the Monetary

Adjustment Account. Then, it says, the amount which are excluded from the computation of profits and losses in accordance with the provisions of the first paragraph of this section shall be entered in a suspense account which shall be called the Monetary Adjustment Account. So, the judgment call is really up to us, Mr. President, if we want to call it an asset, certainly, the Central Bank has called it an asset. But they are expenditures, they are extraordinary expenses.

Senator Guingona. May I refer the distinguished Sponsor to page 58, Section 127 of the bill. In subsection (a), it says:

The Bangko Sentral Monetary Board shall have primary responsibility for working out creative monetary and financial solutions to retire the Central Bank liabilities and losses at the least cost to the government.

May we know what are these liabilities and losses?

Senator Roco. That is a long, long answer, Mr. President. This will take a little while. I think the COA, when they audit, takes three months. If we start reading these liabilities, it may take us a while. Maybe, if it is all right with the Gentleman, I can give him a xerox of various documents that would identify liabilities and losses, and also the good Minority Leader, since he looks as though he is also asking for the same papers, but we can give it, Mr. President.

Senator Guingona. Is the Monetary Adjustment Account part of the losses and liabilities mentioned in this Section?

Senator Roco. In the Balance Sheet, Mr. President, it is not of the assets.

Senator Guingona. No, in the bill. As intended in the bill. Is it part of the losses and liabilities that will be...

Senator Roco. No, it will remain with the old Central Bank.

Senator Guingona. Yes, but when the Gentleman speaks of liabilities and losses on page 58, line 23, my question is: Is the Exchange Stabilization Adjustment Account part of the losses and liabilities?

Senator Roco. No, Mr. President, as I pointed out in Section 45, that one remains with the old Central Bank and does not go up to the Bangko Sentral. Maybe I should give a little more explanation of the theory of rehabilitation.

In the bills, in one or two of them, there is a suggestion for something like a reconstruction trust or there was also a suggestion for creating a subsidiary. We figured in the committee, Mr. President, why create a subsidiary? Why have another

reconstruction trust like the APT when we can just sustain the juridical entity called the old Central Bank? MAA and ESAA stays there. When we start playing around, when we say we give the following assets to the BSP, we must also get some corresponding liabilities. But the assets, MAA and ESAA, can never be given to the BSP because Section 45 says those are among the things that must stay with the old Central Bank.

Senator Guingona. So, are they retained in the old Central Bank?

Senator Roco. Yes, under Section 45.

Senator Guingona. And they form part of the liabilities and losses that will have to be worked out in a creative and a monetary and financial solution to retire these losses and liabilities?

Senator Roco. They will be part of the Balance Sheet of the old Central Bank and they will still be called assets, because I do not know if we are allowed to change an asset and call it a liability under accounting rules or under any other known law. So, I guess, if there was a fault in carrying it as an asset, although it was an "ampaw" asset and there is no accounting rule that allows us to call it an "ampaw" asset, the Balance Sheet of the old Central Bank will carry them as assets although they are fake and there will be corresponding liabilities so that we have a balance statement.

Senator Guingona. If they are assets and they are not losses and liabilities, then why should it be retired and why should there be creative solutions for this when they will be lodged as assets? Why can we not call them as losses and liabilities because that is what they are?

Senator Roco. That is correct, Mr. President. But when we transfer the MAA or when we retain the Monetary Adjustment Account and the Exchange Stabilization Adjustment Account in the old Central Bank, we must balance it with a selection of some liabilities in the ...by the way, where is our xerox copy? Who was the gentleman who xeroxed so we have the same sheet of paper in front of us?

Senator Guingona. Yes, I have.

Senator Roco. Maybe they should return my copy. Here we are. Does the Gentleman have a copy now?

Senator Guingona. Yes.

Senator Roco. All right, if we look at the Balance Sheet — in the Balance Sheet of the old Central Bank — if we retain the Monetary Adjustment Account and the Exchange Stabilization Adjustment Account, we will have to identify some corresponding

liabilities worth P160 billion roughly to go with those assets. But I have a note from the staff which says, all liabilities are real so that whether transferred to the BSP or retained in the old Central Bank, they will have to be retired. And the note also says that the Monetary Adjustment Account and the Exchange Stabilization Adjustment Account which are outstanding as of the date of the effectivity of the law are nothing but deferred expenses.

Senator Guingona. So, in reality, they are losses and liabilities.

Senator Roco. They will be recognized, it says, and therefore implicitly will become losses.

Senator Guingona. So, they are losses and liabilities.

Senator Roco. They will become losses, according to this note.

Senator Guingona. May we know the difference between losses and liabilities?

Senator Roco. I have an answer that I do not want to put on record. But I would guess, losses are losses. Liabilities are obligations. When one loses, maybe he wants to make the business whole, but liabilities are obligations that are incurred and that must be paid for.

Senator Guingona. So, if there are liabilities, then there will be creditors, is that correct? Since they are obligations, there would be an obligee or a creditor to whom the liability is answerable to. Whereas losses is losses. I mean there is no more obligation. Would that be correct?

Senator Roco. That is logical to me, Mr. President.

Senator Guingona. May we, therefore, know who are the creditors of the Exchange Stabilization Adjustment Account and the Monetary Adjustment Account?

Senator Roco. Yes, we have asked for that, Mr. President, if we can ask for the papers. I think it is very difficult to identify all of them also. That will take a voluminous amount of time. In fact, it was this kind of difficulty that convinced the Committee to delegate and instruct the Monetary Board to work out balancing these figures. Because, I doubt if the House or the Senate can go through them one by one.

To prevent any surreptitious or disauthorized coming in or spiriting in of liabilities which we may not want to pay, we are precisely preserving them in the old Central Bank, so that those who want to examine them, as we fossilize them, can do so. That

is the value of our proposed solution. It does not put us to a test of examining each and every liability because we have to get this done at the soonest possible time — it should have been done sooner — but it allows people who still want to investigate to be able to look at them.

Senator Guingona. May we, therefore, know what would be the proportion of losses to liabilities under this Section 127-A?

Senator Roco. I may not be able to give a proportion, Mr. President. But we are told that losses refer to the shortfall in receipts relative to expenditures and the CB losses essentially refer to the excess of CB's interest payments over interest income, whatever that amounts to.

Again, I will ask the Central Bank staff to give specific answers to the requests.

Let me just warn the Gentleman that these are very voluminous, but we will give them. I have absolutely no interest in keeping the papers.

Senator Guingona. For example, when a man engages in the stock exchange, he buys at one centavo a share. Let us say he buys at 10 centavos a share and the stock prices dropped down to one centavo. That is a loss as far as he is concerned.

Senator Roco. If he sells.

Senator Guingona. But when he borrows money to buy the stocks from his agent or from his broker, that is a liability that he has to answer for. Since we are delegating the authority to the new Monetary Board under the Bangko Sentral, does not the distinguished Sponsor believe that we should, at least, know which are the losses, which are the liabilities and which are the creditors, if any, so that in this delegation, we can, perhaps, add some more standards, rather than leaving it to the members of the New Monetary Board to decide which are losses and which are liabilities, and which may be challenged as an incomplete delegation of power?

Senator Roco. We will be happy to work out a formula with the Gentleman, Mr. President. But by way of identifying the so-called "losses", maybe, the following should be put on record. The problem is, even the Central Bank changes term between loss and liabilities.

The composition of the liabilities in the Balance Sheet, Mr. President, insofar as the P300 billion or so that is sought to be cleaned up is as follows:

Deposits of the National Treasury with the Central Bank — that is P124 billion. I guess nobody will disagree with that because that is our money.

Foreign currency deposits of the National Government in the Central Bank — that is P37 billion.

Other deposits of the National Government with the Central Bank is another P30 billion.

Foreign loans payable — this must be supported by loan documents, we can identify the lenders, I guess, is P99 billion. Maybe this one requires some identification. But that can be done. Again, were it not just for the volume of documents, it would be really a simple matter.

Allocation of SDR (Special Drawing Rights) is P4.3 billion; open market instruments is P4.3 billion, and other liabilities which can be broken down is P9 billion.

Those are the identified liabilities that are fairly real. Whereas we have “ampaw” assets. That really is the problem.

Senator Guingona. Yes. Thank you for that.

We would appreciate if the distinguished Sponsor can, just in a summary, tell us who are these creditors. He mentioned already the National Government having on deposit P160 billion. Is that correct?

Senator Roco. Yes.

Let me just run through some of the....

Senator Guingona. So, that is a liability on the part of the Central Bank to the National Government. But it is not a loss. As far as that is concerned, we know exactly the amount of liability that the Central Bank has to answer for.

In the matter of assuming the private debts of private corporations which had to be assumed because the Central Bank at that time did not have the necessary foreign exchange with which to service the payments of private companies like PLDT and San Miguel Corporation, they assumed that, and therefore there was a novation, as I understand it, of creditors. Now, is this still existing?

In other words, is the Central Bank still owing the original creditors or to the passed-on creditors to other parties the amounts they assumed, the amounts also that they used for forward cover and all of these? Perhaps, just in a summary, we would appreciate if the distinguished Sponsor can spell out which are the liabilities and which are the real losses.

Senator Roco. The CB creditors, in summary, will be the National Government. There are certain domestic banks. There are foreign creditors, the general public when they issued the CB paper, and then other holders of CB bills now.

But in reference to what was mentioned, as I understand it, Mr. President, that may be part of the blocked peso, the other liabilities. I do not know if they can identify now whether there is still a lingering amount of liability that is to be settled because of the so many restructurings. This is purely my reading of the situation.

For purposes of our Colleagues, apparently at a certain point in 1983, 1984, or 1985 when certain companies were ready to pay for their outstanding foreign liabilities, they had a peso ready with them, and they gave it to the Central Bank. But the Central Bank, at that time, especially after the death of Ninoy Aquino, did not have dollars. So, what the Central Bank said was, “Okay, we will accept the peso.” And they turned around and talked to the foreign creditor, the foreign bank, and they said, “We will absorb payment of these liabilities.”

As far as the private companies are concerned, they are paid. They gave the peso. The Central Bank negotiated now with the foreign bank, X, and said, “We will pay you but can you restructure it?” So, they restructured it.

What happened is, when it was time for the Central Bank to pay for them, they needed more pesos than the original pesos given to them. In terms of civil law, one cannot blame the private corporations. They have paid. They have done every action to effect what the lawyers would call extinguishment of an obligation. So, their obligations were extinguished.

There really was no novation. It became the Central Bank’s stepping — I do not know whether subrogation will be the correct term — but they assumed the obligations as new obligations given a new period of time. When it came to pay the Piper, they needed more pesos, and that accumulated. I do not know exactly whether they put it under MAA or ESAA. We put it under ESAA. RIR in some instances, but that was what happened.

So, we have a situation where original obligees, original debtors had paid, but the original creditors were not yet paid because there was a new borrower that stepped into their shoes with the consent of the lender.

I think we can identify that.

Senator Guingona. Yes. And in effecting this difference in payment between the original obligation and the new obligation at a later date, did the Central Bank issue new monetary notes or did they print pesos to honor the obligation?

Senator Roco. I do not know. I guess a combination of printing. Sometimes they borrowed more money from the public. I do not know what other things they may have done.

Senator Guingona. We will appreciate....

Senator Roco. I have a note that says that the Central Bank continues to accept blocked peso deposits from government entities. The liability account goes up as pesos and they are received. And then the account goes down when the Central Bank delivers the principal payment on the liabilities covered by the peso deposits.

Senator Guingona. So, the original creditors were already paid?

Senator Roco. Maybe there are still some lingering liabilities because of the restructuring. It is very difficult because we have put them together.

If the Gentleman remembers the Debt Council, we have bundled together all the different liabilities. Some of the liabilities of private companies which, as far as the private companies are concerned, have been fully paid, they may still be bundled up in the various restructuring. They may have been given 30 years to pay and so there could be an aliquot portion of those restructured amounts still pending. Whether we can unbundle them now as a legal matter or even as an accounting matter will take a little while, Mr. President.

Senator Guingona. Mr. President. I suppose that there were no irregularities of any kind. We have to disabuse the minds of the people that the Central Bank was either negligent or did not live up to its duties because at that time, the circumstances were really grave and they needed draconian measures to meet the emergency.

Now that we are discussing the measure, Mr. President, does the distinguished Sponsor not agree that even in general terms — not necessarily individually itemized creditor but just on generalized terms — government sector, so much; private debt assumed so much; forward cover, so much....

Senator Roco. Mr. President, we will give the distinguished Gentleman a copy. I think all of us have been provided at one time or another copies of this, but it may have been difficult to go through them. We will provide all our Colleagues with a list of all these creditors.

Senator Guingona. We would appreciate if the distinguished Sponsor can segregate the losses. In other words, these are no longer liabilities. They have ripened into losses.

Senator Roco. I am not sure if we can do it within the time that we have, Mr. President. But it can be done.

Senator Guingona. Just to give us a general idea because Section 127 says "liabilities and losses".

Senator Roco. Yes, Mr. President. The reason I am precisely delegating it to the new Monetary Board is that they will have not only the competence, but presumably the experience to select the best combination of assets and liabilities that remain with the old Central Bank, to select the assets and liabilities aside from the ones we have instructed them to get so that the Bangko Sentral is viable.

Senator Guingona. Yes, Mr. President. Because in 1986, the PNB and the DBP also suffered tremendous losses. They transferred nonperforming assets to the tune of P150 billion to the APT. Whether the transaction was beneficial or not — it seems to have been — should serve as a lesson to further improve on the formula. Now that they have transferred or relieved themselves of the nonperforming assets, they have made profits. But they do not seem to contribute to the National Government's coffers. The same thing may happen if, after the Bangko Sentral is rid of these losses and liabilities, they will no longer acknowledge the relief granted. We just want a basis for comparison, Mr. President.

Senator Roco. The Committee, Mr. President, was very cognizant of that sad situation. In fact, that is one reason why we thought of preserving the old Central Bank so that there can be more time to examine what remains there without hindering the capacity of the new Bangko Sentral in operating as an independent Monetary Authority as mandated, to avoid precisely the same situation. There is no effort, however, presumably to sell the assets the way the APT was mandated.

Senator Guingona. What about the Revaluation of International Reserve, would this be considered as losses or liabilities?

Senator Roco. I guess my answer will be the same as the other two. Actually, the revaluation account is a reserve, as best as I can understand it.

Let me read the Section on the revaluation account, because they do not become actual losses or anything. It says:

The revaluation and other profits or losses made or assumed by the Central Bank in accordance with the provisions of 77 and 83 shall not be included in the computation of the annual profits and losses of the Central Bank. Any profits or losses arising in this manner shall be offset by any amounts which, as a consequence of such revaluations, are owed by the Philippines to any international or regional inter-governmental financial institution of which the Philippines is a member or are owed by these institutions to the Philippines. Any remaining profit or loss shall be carried in a special frozen account which shall be called "Revaluation of International Reserve," and the net balance of which shall appear either among the liabilities or among the assets of the Central Bank, depending on whether the revaluation have produced net profits or net losses.

And then it says:

The Revaluation of International Reserve account shall be neither credited nor debited for any purposes other than those specifically authorized in this present Section (or in Section 45 of this Act).

And Section 45 says:

Any profits arising from minting of coins or reduction in the currency liabilities of the Central Bank, as a consequence of the loss, destruction, demonetization of notes, and coins, shall be included in the computation of annual profits, but such profits shall be used to reduce the monetary adjustment account, and the account to secure the coinage or the asset account Revaluation of International Reserve.

The distribution of such profits among these accounts shall be determined by the Monetary Board.

And then it says:

If none of said accounts exist, the profits to which this Section shall refer shall be passed on to the Securities Stabilization Fund.

I do not know whether to call it a loss or a profit. Sometimes it will be profitable if they do make money. When the exchange went down, I think, P23.00 to \$1.00, what happened? Did we make money? We lost, yes. When it went up, we gained.

Senator Guingona. The revaluation account, therefore, is self-adjusting in the sense that if the economy improves and the foreign exchange value improves as far as we are concerned, then it will make a profit, but since the peso deteriorated from P27.00 to P1.00, it has depreciated and increased the value.

I have many more questions, Mr. President, but I see the Chair signalling and, therefore, I am willing to defer my interpellation until tomorrow.

Senator Roco. Yes, we will be happy, Mr. President. Maybe

the papers that have been requested will not be available yet, but a lot can be answered with great detail. We just need time.

May we just put on record, as we close tonight, Mr. President, that we are fortunate and honored that the Committee Report should be considered a Joint Committee Report with the Committee on Economic Affairs.

Senator Romulo. Mr. President.

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

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1235

Senator Romulo. Mr. President, with the permission of the Gentleman on the Floor, I move that we suspend consideration of Senate Bill No. 1235 until tomorrow.

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

Senator Romulo. Mr. President, tomorrow, after the Privilege Hour, we shall resume consideration of House Bill No. 8308, the Cigarette Tax Bill, finish the interpellations and go to the period of amendments. Thereafter, we shall resume consideration of Senate Bill No. 1235, the New Central Bank Act.

ADJOURNMENT OF THE SESSION

With that, Mr. President, I move that pursuant to Rule XXXI of the Rules of the Senate, we adjourn the session until four o'clock tomorrow afternoon.

The Presiding Officer [Senator Aquino]. The session is adjourned until four o'clock tomorrow afternoon, if there is no objection. [*There was none.*]

It was 7:30 p.m.

MAY 26, 1993

May 26, 1993

In closing, let me read a quotation from an author, from the book *Care of the Soul*, that I happened to be reading when the mysteries of this time and this place began to present themselves, and I quote:

In matters of the soul, the most unworthy pieces turn out to be the most creative. The stone the builder rejects becomes the cornerstone.

This afternoon Representative Caling Lobregat, reading what is happening came to me with this consoling Spanish proverb, which I find very appropriate, and I quote: "*No hay mal que por bien no venga.*"

Mr. President, considering the sensitive chairmanships that I hold, and in view of the tendency for rumors of one sort or another to start, especially in the Congress, I believe it is only proper that I consider myself, as of today, on leave from these chairmanships, pending the decisions of the Majority, and I therefore ask the Vice-Chairmen of the Committees to act as chairmen, when necessary, because if there is anything that I would not like risking to be charged of is that I have made midnight decisions of any kind while this matter is pending.

I reiterate, Mr. President, I must thank you sincerely for the privilege of having chaired some of the most important committees of this Institution and I must thank you, in the words of the book that I am reading, at least, today, "I have rediscovered my soul."

SUSPENSION OF THE SESSION

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

It was 6:37 p.m.

RESUMPTION OF THE SESSION

At 6:39 p.m., the session was resumed with the Honorable Agapito A. Aquino, presiding.

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

BILL ON SECOND READING

Senate Bill No. 1235 — The New Central Bank Act
(Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1235, the New Central Bank Act, as reported out under Committee Report No. 138.

The President. Resumption of consideration of Senate Bill No. 1235 is now in order.

Senator Romulo. When we suspended consideration of this bill, Mr. President, we were in the period of interpellations. I ask that the distinguished Chairman of the Committee on Banks, Financial Institutions, and Currencies, Senator Raul Roco, be recognized with Senator Teofisto Guingona to continue his interpellation.

The Presiding Officer [Senator Aquino]. Senator Roco and the Senate President Pro Tempore, Senator Guingona, are recognized.

Senator Roco. Mr. President, thank you for the recognition. Since we are acting Chairmen, may I, as Acting Chairman of the Committee on Banks, Financial Institutions, and Currencies. Just to satisfy the request of the Gentleman from Mindanao, I received at five o'clock today a letter dated May 26, 1993 from the Deputy Governor of the Bangko Sentral, and let me just read into the Record the letter. It says:

Dear Senator Roco:

With reference to the requested information yesterday during the Senate deliberation on the CMA, we are transmitting the following data on private sector foreign loans assumed by the Central Bank.

	Amount (In US\$ Million)
1. Private loans assumed by the CB under the Paris Club Bilateral Rescheduling Agreements (Attachment I)	3.731
2. Private loans assumed by the CB under the following Circulars Pertinent to the Commercial Bank Rescheduling Agreement	
a. CB Circular 1076 (Attachment II)	595.389
b. CB Circular 1178 (Attachment III)	166.480
c. CB Circular 1091/1179 (Attachment IV)	435.518 million

Please note that with respect to the private sector loans owed to Paris Club and commercial banks creditors, the assumption thereof/extension of forward covered by the CB under the various rescheduling agreements with the foreign creditors concerned were effected via the peso blocking scheme.

Under this scheme the obligors surrendered to the CB the peso equivalent of their maturing foreign obligations.

The assumed accounts are then subsequently being serviced by the CB according to the new repayment terms set out in the respective rescheduling agreements.

Regards.

We propose to make copies for all Members, Mr. President, and distribute it in the ordinary course.

Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. Thank you. Senator Guingona is recognized.

Senator Guingona. Thank you for the information. I was just wondering what is the total of all of these. Do they approximate \$3.8 billion?

Senator Roco. That is only on the private loans assumed by the CB under Paris Club Bilateral Rescheduling Agreements — \$3.7 billion; then there is another one \$1.1 billion, so \$4.8 billion.

Senator Guingona. Are these liabilities still unpaid in the sense that the original creditors are still the same creditors?

Senator Roco. Under the peso blocking scheme, Mr. President, the original creditors will have assigned these to the group of bankers or to the group of creditors in their restructuring scheme. So, we can say they are the same in the sense that they were all consolidated in the restructuring scheme. And a set of banks, as I understand it, stepped into the shoes of all these other banks.

Senator Guingona. And the Central Bank continues to pay these obligations.

Senator Roco. I guess so, Mr. President. It says, the amount of \$3.7 refers to the private sector loans, assumed by the CB, and the P19 billion total shown in Attachment 1, which also includes private debt, assumed by the National Government.

So there is a P19 billion already assumed by the National Government.

Senator Guingona. How much is that?

Senator Roco. P19 billion.

Senator Guingona. So, of the total amount, how much would be considered as loss and how much as liability?

Senator Roco. Hold on, because these are figures so we have to rely on the technical staff.

There was a mistake in the note. The P19 is not in billions, but only in millions. Then we have \$3.731 million also.

As to the question of what are the liabilities and the losses, we will dig it out, Mr. President.

Senator Guingona. The \$3.731 private loans assumed by the Central Bank under the Paris Club Bilateral Rescheduling Agreements in Attachment 1 —

Senator Roco. Yes.

Senator Guingona. — does this mean that the National Government paid P19 billion?

Senator Roco. They must have paid part of this, Mr. President. To my knowledge, they must be paying the balance in the ordinary course of the restructuring.

Senator Guingona. I am sorry that we have to go into this, but the P19 billion to us does not seem clear. Why did the National Government have to pay the P19 billion? Is this a difference between the original obligation and the increase because of foreign exchange or because of interest?

Senator Roco. I guess they have to pay because they were outstanding obligations.

We can go into this at great length, Mr. President. We can, in fact, have a full audit of the Central Bank. It is very lengthy. I cannot answer all these questions because they do not seem material in the discussion of the CMA or the new Central Bank Act in terms of the law. I have all the records. I can give them all to Senator Guingona for study over the next six months.

Senator Guingona. I am awed at the number of documents and the length of time. Therefore, I will try to make it as simple and as brief as possible.

Senator Roco. Yes, Mr. President, we will appreciate that. In fact, we can spend a whole lot of time in all the details. Just to put focus to what the Committee is seeking from the Body, the reason we isolated, precisely, the old Central Bank is to preclude such detailed discussion to the extent that we preserve in the old Central Bank all these accounts. Any Member of the Senate or any member of the public who is minded to look through all these details can have all the time in the world to do so.

Senator Guingona. Schedule 1 is supposed to represent the data on the private sector foreign loans assumed by the Central Bank. This is correct, is it not?

Senator Roco. That is what Deputy Governor Zialcita is saying.

Senator Guingona. Are all of these loans listed here still outstanding? Or have they all been paid?

Senator Roco. As I mentioned earlier, to my understanding, some have been retired; some are ongoing.

Senator Guingona. Some are ongoing. May we know the difference... What happened to the peso deposits that were received from the private companies?

Senator Roco. I think the specific question is, what is the difference?

Senator Guingona. No. May we know what happened to the peso deposits given by the private firms by way of payment to the original creditors?

Senator Roco. They were used to purchase the foreign currency needed and definitely, I would imagine, there would be shortfalls.

Senator Guingona. Yes, but the shortfall is this much. Why did the National Government have to give the P19 billion? I am under the impression that the shortfall was paid by the National Government.

Senator Roco. I also want to know the answers to those, Mr. President. Because as far as my review is concerned, there were a lot of obligations that eventually ended up with the Central Bank or with the National Government. I cannot give all the details. But as a general proposition, that is correct. There were questionable decisions. That is why we have this burden taken from the Central Bank. In fact, that is the reason they are asking us to pay for P300 billion.

Senator Guingona. So that if there are questions, the issue of accountability is not yet over, is it?

Senator Roco. The issue of accountability is specifically addressed in the structure proposed by the Committee. We have a new *Bangko Sentral ng Pilipinas* which will have a clean balance sheet with selected assets and liabilities that will operate like a new car. Presumably, that should make money. We have the old Central Bank with leftover assets and liabilities that will be serviced by the *Bangko Sentral*, the new entity. For any shortfall, they must now come to Congress to ask for money. On a year-to-year basis, therefore, we can have accountability under the setup proposed by the Committee.

Senator Guingona. I am sorry if I have to ask this question again, but the answer is not yet clear. Of the P308 billion, how much would the distinguished Sponsor consider as losses?

Senator Roco. Mr. President, in the context of the Committee Report, that is a matter that must be subject to the judgment of the new Monetary Board. I can give the answers from the Technical Staff; but, to me — and this is the principle — the new Monetary Board, as required by the Constitution, must make those judgments. It is a principle that the Committee Report is suggesting. The one with primary jurisdiction and the one with primary competence must make those judgments.

But to satisfy the Gentleman, we will ask the Technical Staff what exactly of the \$3.7 million must be paid as losses. There are no losses, according to them; they are obligations. They are liabilities.

Senator Guingona. So that the statement in the interim provisions, specifically, Section 127, paragraph (a) on line 23 is not really accurate. We can delete the phrase "and losses".

Senator Roco. There are losses.

No, I was just answering the question, Mr. President, on Attachment I. Because the question refers to Attachment I on the \$3.7 million. There are other attachments. Maybe, there are losses there.

In any event, maybe, if the Gentleman feels very strongly about it, we can consider deleting that.

Senator Guingona. We were wondering, Mr. President, if we could determine the amount of losses. So that in CPA terms, if the losses are really losses, they can be written off.

Senator Roco. I think that is possible.

Senator Guingona. But we have to know, as Members of the power who hold the purse strings, how much we are writing off. The distinguished Majority Leader is an advocate of writing off losses. But in order to write-off, we must know how much are these losses.

Senator Roco. Yes, that will be one of the functions of the new Monetary Board. I have no objections to that line of questioning of the Gentleman, Mr. President. I even agree that, maybe, we should modify it to remove losses. But we must mandate that the new Monetary Board should ascertain what are these losses, unless we as a Senate wanted to go through all these books. I am also willing to do that.

I do not know whether our Monetary officials will be happy if we start going through as a Senate. In fact, my own personal feeling is that it will be foolhardy to do so.

Senator Guingona. In addition to the P19 billion that is listed in Schedule 1 here, the National Government also helps the Central Bank by purchasing security instruments and depositing the same with the CB in the amount of P160 billion. Is that correct?

Senator Roco. We are referring to the balance sheet in terms of the deposits.

Senator Guingona. Deposits, yes.

Senator Roco. That seems to be correct, Mr. President.

Senator Guingona. And one of the main reasons for having this new Bangko Sentral is to make it viable and to rid it of liabilities. Is it not?

Senator Roco. Yes, that is correct.

Senator Guingona. And also to secure the loan of \$450 million from the World Bank.

Senator Roco. That is neither in the Constitution, Mr. President, nor within my knowledge. Nobody ever informed me about this. But that, again, is totally immaterial to the proposed bill. Incidentally, if by passing the New Central Bank Act we achieve this new loan — because as I understand it from the papers, there is a pending loan that can be released if we approve this, then very good.

But in terms of the constitutional mandate, in terms of our job description to have a Central Monetary Authority, those are incidents.

Senator Guingona. And the purpose of this is to enable the Bangko Sentral to be able to stabilize prices and control inflation in a more effective manner.

Senator Roco. That is correct, Mr. President, that is the objective.

Senator Guingona. In order to do that, it should find ways and means of liquidating the liabilities of about P308 billion.

Senator Roco. Within the constitutional mandate, Mr. President, and within the informed judgment of those who know — like the Monetary Board.

Senator Guingona. Since that seems to be the objective, does the distinguished Sponsor have any strong objections to offsetting the P160 billion already paid by the National Government to wipe out the liabilities of the Central Bank for the corresponding amount?

Senator Roco. If put in the Monetary Board, Mr. President, acting collegially, I may even like the idea. But for purposes of making this proposed law, I personally do not feel that we can make that judgment and put it in the law. Supposing it is not 170, but 130, supposing we can get away with only 40 billion, those flexibilities must be allowed the new Monetary Board.

In other words, my own opinion as to how this can be done, or our own separate opinions on how to restructure is when we would be better advised, Mr. President, if we follow administrative law principles of delegating to those with superior competence and authority on the matter so long as acceptable guidelines are given to them.

This is the type of discussion the Committee truly wanted to give to the Monetary Board, because there are several other possibilities — we can set off as against deposit, we can have deposit that does not earn interest and lock it in, we can have long-term promissory notes, but all these must be subject to informed judgment by people who have that duty to make the informed judgment.

So my opinion, Mr. President — I have no strong feelings. In fact, as I said, if put in the Monetary Board, I might go for that idea.

Senator Guingona. Would our delegated authority be sufficient to enable the Bangko Sentral to enter into compromises and set offs? Would they not have to return to Congress and thereby make the task more burdensome? Because offsetting may entail certain obligations and, therefore, they may have to go back to Congress to seek authorization anew, since the only standard is at the least cost to the government. But that is a subjective term that can be questioned. Therefore, I was just wondering if we can take care of the losses by offsetting that amount.

Senator Roco. The Committee is open to suggestion on that level, Mr. President.

Senator Guingona. All right. The proposed capital of the Bangko Sentral is P10 billion.

Senator Roco. Yes, Mr. President.

Senator Guingona. Although, actual paid up — as I understand it — is only a nominal amount of 10 million to start the Central Bank's existence. Is that correct?

Senator Roco. That is correct, Mr. President, and then there is some surplus of 400 million, donated surplus of 372, reserves, these are the items below, 1.7 billion and undivided profits 60 million.

Senator Guingona. Does the distinguished Sponsor not believe that this is a small amount compared to the responsibilities and the gigantic task of the functions of the Central Bank, considering further that the NAPOCOR itself, which is powerless, has a capital of P50 billion? Here, we have NAPOCOR with P50 billion and Bangko Sentral with only P10 billion. Will the distinguished Gentleman not agree to increasing that capital?

Senator Roco. The Committee, Mr. President, is open to suggestions on that level except that all the bills filed mentioned P10 billion and so we thought since all the authors agreed on P10 billion, we just carried that over. But it is not something that is cemented and concrete.

So, I accept the principle, Mr. President, that one of the clear transparent outflow of money from the National Government is an actual investment that can be useful both to the Central Bank and can be seen by the Filipino people as capital given to the new Bangko Sentral.

Senator Guingona. So that if, for example, we authorized the deposits already lodged with the Central Bank in the amount of P50 billion from the P160 million to be utilized as capital, will the distinguished Sponsor agree that this will be a more viable Bangko Sentral? There will be no cash transfer. It is only a book entry but it will relieve the Central Bank of having to pay tremendous interest on the deposit of the National Government and at the same time, enable the Bangko Sentral to have a bigger amount of capital?

Senator Roco. If that were to happen, Mr. President, Bangko Sentral will be totally delirious. But I think it will be in direct proportion to the anguish, anxiety and despair of the National Treasury because we shall have deprived the National Treasury of their savings and deposits and give it to the Bangko Sentral. I am sure Bangko Sentral will be happy but whoever is our Treasurer, and DBM may seek for painless way of committing *hara-kiri* because what then do they do or what then will they use for money? It is really a question of balancing where one may have maximum use of money available. And that, Mr. President, again, will be best left to the dynamics of the new Monetary Board. But I concede increase of capital but to commit in the law that deposits shall now be converted to capital may be a difficult decision for this Body to make and to put in the law.

Senator Guingona. But some of these deposits are non-interest bearing and therefore would not in any way dampen or affect the ecstasy of the National Treasury since they are non-interest bearing and it will help resolve one basic problem of capital.

Senator Roco. Again, Mr. President, I have no disagreement to the various modes and proposals. What I am saying is that since

we are creating an independent Monetary Board, we are supposed to select the best and the brightest. We are supposed to subject them to the screening process of the Commission on Appointments. They are supposed to be majority from the private sector and we will pay them relatively high compared to the present salary structure. It is good that they earn their keep instead of our doing the monetary solutions here.

Senator Guingona. But does the distinguished Sponsor not believe that the perspective of outsiders looking in, the National Treasury and the Central Bank, the National Government and the Central Bank are one and the same as far as consolidated deficits are concerned, therefore, when they analyze the problems of the country, they look at the Central Bank and the National Treasury as one, and, therefore, the transfer would really be good domestically for us?

Senator Roco. In terms of the public sector deficit, Mr. President, as I understand it, that is correct. That is a correct statement. But to say that we shall effectively put aside the differentiation in the juridical personalities of the National Government, the Central Bank and all other government-owned corporations is a difficult proposition to take. It means that we shall have a co-mingling of all these different funds; all the different government-owned or -controlled corporations shall co-mingle also with our funds. I do not believe, Mr. President, that may be a prudent thing.

The constant argument of our monetary and finance leaders is, it is one pocket to another. Well, there must be a reason for keeping it in different pockets as different juridical personalities. And I think, accountability and control requires precisely that we keep them separate.

When we allow co-mingling, effectively there is malversation. Effectively, there is estafa going on. Except that it is legal because it was done according to the rules. But were it done by a private individual mixing funds from one source into the funds of another I believe, Mr. President, even employees of the Senate, will be in violation of the rules if they start mixing funds. And that is the reason, Mr. President, we must make sure that these funds are kept juridically and in their integrity separate.

Senator Guingona. I agree with the distinguished Sponsor. The fact is that he agrees also that the capital of P10 billion can be increased. And I am only proposing a way of increasing this.

Senator Roco. Yes, I have no problem, Mr. President. We can even arbitrarily agree to P20 billion or if the House, because this should properly come from the House, is amenable to P30 billion and the National Treasurer and the Department of Budget and Management certifies that, therefore, there is no shortfall in terms of the revenues projected, then we have no problem.

The problem, Mr. President, and here again we get into the nitty-gritty of Executive functions, the reason is, it is very difficult for us to identify now P20 billion because I do not know. In the House, that requires a certification that that is available. In the Senate, I do not know who can certify that that is available. So, we do not know how much is available. I am open, however, to an informed suggestion from the House, DBM and the National Treasurer. Subject to those conditions, the amounts to me must really be given as a support to the CB.

Senator Guingona. It can be P50 billion.

Senator Roco. Again, Mr. President, if we do not have to tax our people to raise those money, and if we will collect all those amounts of taxes that are not collected, and if we can collect what the distinguished Gentleman from Catanduanes was claiming as specific taxes that are unpaid, if we can have all these effort by the government, P50 billion is easy. But if we will now impose new taxes to raise that P50 billion and it is not covered by the projections of the present revenues, then we might have real problems running the government.

Senator Guingona. I will go to another point. The proposal was only to offset the non-interest bearing deposits.

May I go to Section 2 of the bill, and this refers to the supervision of the banks by the Central Bank, by the Bangko Sentral.

Senator Roco. Yes, Mr. President.

Senator Guingona. I know this is lifted from the constitutional provision but does the distinguished Sponsor not believe that supervision here includes regulation?

Senator Roco. I think in the specific sections there are regulatory powers mentioned.

Senator Guingona. Yes. But since the paragraph enumerates supervision over the operation of banks and exercise such regulatory powers over the operations of finance companies, et cetera, it would seem that there is a distinction between supervision and regulation which is not the one intended. This is, of course, lifted from the Constitution. But if we can clarify it, perhaps the distinguished Sponsor...

Senator Roco. Yes. This was lifted from the Constitution, Mr. President, and I think the Constitutional Commission actually was unclear. We are just repeating the words and subject to existing law, because the Commission itself was not clear as to what is meant by regulatory powers over the operation of finance companies and nonbank financial institutions.

These are our additions already.

Again, the Committee, Mr. President, is open to consider modifications there.

I am looking now at the engrossed copy. If the good Gentleman will look at page 2 of the engrossed copy, it shows that, it shall have supervision over the operations of banks and exercise such regulatory powers.

So, regulatory power is, as provided in this Act; in fact, we do recognize its regulation.

Senator Guingona. Thank you.

May I go to page 4 of the proposed bill. On line 2, it says: "...conducive to a balanced and sustainable growth." May we, for the record only, know the meaning of "balanced"?

Senator Roco. Yes.

We mentioned this during the sponsorship, Mr. President, and may I again reiterate. The word "balanced" — and this is on advise of the economists — should not be interpreted in the context of the old balanced and unbalanced growth theory in economics, it says. Rather, it means a monetary policy that is neutral with respect to all sectors of the economy. In other words, it does not favor one sector over the other, except that we have been advised not to use the word "neutral" since it does not seem to be as acceptable as the word "balanced".

As a footnote, Mr. President, we may want to call attention to various point of views as regards this term. From the economic point of view, we are informed the concept "balanced" could be misleading and might be difficult to defend, it says here.

However, there is good reason for assuring that monetary policy will not be used to favor one sector over another. The word "balanced" therefore, specifically as used here, refers to concept where the monetary policy will not be utilized or exploited to favor one sector of the economy.

Senator Guingona. But if Congress, for example, formulates a policy of industrialization, would the Bangko Sentral now support this industrialization program?

Senator Roco. Mr. President, I am in favor of industrialization. But whether we should put that assignment to the Monetary Board whose main function is to control inflation and to insure that the price stability is within a predictable range, may not be an appropriate means. Perhaps, industrialization as a goal should be given to finance, to commerce, to the Department of Trade and Industry, but not as a monetary articulated goal.

Senator Guingona. Mr. President, this is a little basic because in a developing economy, the role of the Bangko Sentral cannot really be left to price stabilization alone. Because the prices may be stable but if we cannot generate jobs, the prices may be stable but if we cannot expand our industries, our factories, then the Bangko Sentral may be doing a disservice to the people, to the nation. And since it is Congress which fixes the policy directions and Central Bank is not an independent republic but still is a part of the Philippines, it must comply with the economic mandate of Congress.

Senator Roco. Maybe I should put it this way, Mr. President:

If the Central Bank achieves a balanced and sustainable growth and is able to maintain price stability — not necessarily just the maintenance of price but controlled inflation and less erratic movements in the value of money — the economists tell me that those conditions will therefore create an incentive for private enterprise and the private sector to go into industrial investment. Because they can predict and, therefore, I am made to understand that it is precisely this monetary environment that Bangko Sentral must achieve.

We have no disagreement about industrialization. I appreciate that in the submitted bill of the Gentleman there were a series of goals. The reason we articulated only one as primary, precisely, is to avoid later on in the Monetary Board where we might have seven members; one may be very strong for industrialization; one may be very strong for the philosophy of agricultural development as a base for industrialization.

And then in the debate — and I have heard these discussions by the economists — and even within my limited understanding, it is a fantastic debate. Instead of being focused therefore on controlling inflation, and assuring price stability, they can be misled into a total world of economic policy. We want to avoid that in the next Monetary Board.

So, we do not disagree. By all means let them look into creating an environment conducive to industrialization. But when they argue, and somebody says, "Our principal function in life is price stability, control of inflation, et cetera," then that is it because the law says so.

Senator Guingona. As long as it is in the record that balance does not mean the maintenance of the present forces represented by the different sectors but rather would mean an adjustment to the overall economic policy of the accelerated growth, generation of employment and industrialization, modernization of farming, et cetera.

Senator Roco. No, they will not be excluded, Mr. President. What we are trying to suggest, however — and the bills suggest it

— is a focus on the direction and on the decision-making process of the Monetary Board.

For instance, Mr. President, in the bills there is fair consensus that development financing should not be an area that the Central Bank of the Bangko Sentral should go into, because it is tempting to print money so that one can have development financing. That is what we do not want. That is why that has been deleted from this proposed bill.

Again, it is part of the philosophy of focusing what the Bangko Sentral will do — maintain price stability conducive to a balanced and sustainable growth. When they argue, regardless of their economic theoretical biases, that must prevail.

And as I mentioned, Mr. President, when the Gentleman from Ilocos Sur and Manila asked, this is one section where all the guests, regardless of ideological color, were unanimous. Absolutely, nobody disagreed. They had some collatillas but nobody disagreed to the maintenance of price stability.

Senator Guingona. Yes, Mr. President, we appreciate that. But would the distinguished Sponsor agree to deleting the word "balanced" and just place here "conductive to sustainable growth of the economy?"

Senator Roco. Subject to consensus by the Authors, Mr. President. I think the Committee will be happy with "price stability", but there must be some recognition, demands and requirements of the other Authors. If we can get the Authors to agree to deleting that, then the Committee will certainly consider.

Senator Guingona. "Price stability" would naturally mean also low rates of interest.

Senator Roco. The low rates of interest, Mr. President, is again something that the Committee was tempted to look into. The Committee was tempted to put in the law also specific mandate on the reserves with the understanding that for every three points of reserve requirement, it amounts to 1 percent of interest rate.

So, if we were to go down from 22 percent now to, let us say, 10 percent, that is really 4 percent interest rate that should be going down. The government as the biggest borrower will now have less interest to pay. But, precisely, on the philosophy that such details should not be imprisoned in the law, that we must allow the Monetary Board to earn its salary, we restrained ourselves from such an inclination, Mr. President. But as far as the question is concerned, yes. It will be an effort, I hope, by the Monetary Board to lower the interest rates. If they do not do so, there are other things that this Congress can do to try to influence the lowering of the interest rates. As of today, Mr. President, we

have seen over the past two or three months earnest efforts by the Monetary Board to do so.

Senator Guingona. Going to the composition of the Monetary Board, the bill calls for seven members, five of whom shall be full time and two part time.

Senator Roco. Yes. The five are from the private sectors. Three will be full time and two part time.

Senator Guingona. The three full time members from the private sector, once they accept the appointment, will no longer be as a private sector. They will already be in a public sector. They will be government officials. Will they not?

Senator Roco. That is correct, Mr. President.

Senator Guingona. What will they do as full time members of the Bangko Sentral? Under the proposed bill as I read it, it is the Governor — and rightly so — who shall be the chief executive of the institution. Therefore, in a larger sense, he is the manager, he is the chief executive of the institution, he decides how and when to implement the policies of the Monetary Board.

Senator Roco. That is correct, Mr. President.

Senator Guingona. But here we have three full time members who will devote all their time to the Bangko Sentral not only on policies but also, perhaps, research. Does the distinguished Sponsor not feel that there will be a collegiate management in the sense, thereby negating the concept of one chief executive who is responsible for implementing the policies of the Board? We have here three full-time Monetary Board Members who are knowledgeable, I suppose, in banking, currency and finance, and who, therefore, will dabble into the affairs of management. Will this not be counterproductive in the sense that we are comingling or mixing policy and implementation, thereby creating a collegial management which in many cases have proven ineffective?

Senator Roco. Yes, that is not the intention, Mr. President. If the wordings do not preclude that possibility, then we are willing to look into new wordings.

Let me state for the record, Mr. President, so that the debate will show the intention, that in the definition of a seven-man member of the Monetary Board, our Committee was very conscious of corporate law concepts — the Monetary Board is collegial; it must act collegially; and only the Chairman of the Board or the Governor of the Central Bank has powers other than his membership in the Monetary Board. In other words, a member

of the Board has no individual powers. He must act within the context of the Board. But the Governor of the Central Bank, as Chairman and effectively Chief Executive Officer, has separate powers.

May a full-time member, therefore, walk into the Economics Department and give orders. I think out of politeness, people in the Central Bank will conform. But under corporate law concepts, that is not correct. No Board Member and no Director can walk into any operating division or any staff unit of a corporation and say, "I want to have the following done," because their powers must be exercised collegially.

If there is need to put this in words, the Committee will be willing to do this with the help of the Gentleman. But let there be no mistake; there is absolutely no intention to allow full-time members to meddle with the operations.

What will they do? They will study all these figures, all the questions of the Gentleman as to who are the creditors. Let them look at that, Mr. President. That should occupy their time. When they sit in the Board, they will not be at a disadvantage because, as part-time members, sometimes one can be at a disadvantage in terms of information. This happened to the two of us in the Debt Council. We have other things to attend to. We would walk into the Debt Council. The Gentleman representing the Senate had done his little homework. I also did my little homework from the House of Representatives. Then they put on top of our tables bundles of documents. Before we are even on page 3, they are suggesting already the decision. That is the reason, Mr. President, there was need for full time, and that is the theory behind that. But we do not want them intervening in operations.

It was, in fact, suggested by one of the resource persons to let them get management functions. Our Committee, in terms of our management concept, Mr. President, believes that that is not correct. We are willing, of course, to submit to the superior judgment of this Body, but we must maintain collegiality in the Board, and we must give powers to the leader, the manager, the governor, and the chairman of the Board.

Senator Guingona. Thank you for that. I have many more questions, Mr. President, but I see that the distinguished Chairman has a wide smile and he might have an appointment. I am willing to go ahead.

As I said, Mr. President, I have more questions, if the distinguished Sponsor will bear with me, but I can defer until tomorrow.

SUSPENSION OF THE SESSION

Senator Romulo. 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 7:35 p.m.

RESUMPTION OF THE SESSION

At 7:39 p.m., the session was resumed.

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

Senator Romulo. Mr. President, with the permission of the Sponsor of the bill, Senator Roco, and Senator Guingona, who is interpellating, we will continue the interpellation of Senator Guingona tomorrow.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1235

In the meantime, Mr. President, I move that we suspend the consideration of Senate Bill No. 1235.

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

Senator Romulo. Mr. President, tomorrow we shall also continue with the interpellation on House Bill No. 8308, the Cigarette Tax Bill.

SUSPENSION OF THE SESSION

Since there are no other matters to be taken up in this evening's session, Mr. President, I move that we suspend the session until ten o'clock sharp tomorrow morning.

The Presiding Officer [Senator Aquino]. The session is suspended until ten o'clock sharp tomorrow morning, if there is no objection. [*There was none.*]

It was 7:39 p.m.



May 27, 1993

I would like, Mr. President, the comparison between specific tax prior to the adoption of the *ad valorem* tax by the Aquino administration, and under that specific tax, how much would we have collected? Under the *ad valorem* tax as collected under the Aquino administration, of course we know the collection, and compared to this House bill with the Senate amendment, how would they compare if we were to choose in 1986? How would they compare?

May I be given that report and study after the interpellation, Mr. President, because this would be pertinent when the period of amendments come in.

Senator Herrera. I have here the data, Mr. President. I will just give this to the Gentleman. He can go over the data.

Senator Romulo. Mr. President, may I ask that this be inserted into the *Record* so that while it need not be stated now during the interpellation, this would be part of the record.

Senator Herrera. Thank you, Mr. President. We have now the data and I would like to provide the Secretariat a copy so that this will be included in the record of the Debate. And I will see to it also that all Members will be furnished a copy of this comparative study in order that we will be more enlightened.

Senator Romulo. Thank you, Mr. President.

SUSPENSION OF THE SESSION

May I just 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 10:28 a.m.

RESUMPTION OF THE SESSION

At 10:35 a.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 8308

Senator Romulo. Mr. President, with the permission of the Chairman of the Committee on Ways and Means and the next speaker to interpellate, I move that we suspend consideration of House Bill No. 8308 under Committee Report No. 147.

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

BILL ON SECOND READING

Senate Bill No. 1235 — The New Central Bank Act (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1235 as reported out under Committee Report No. 138.

The Presiding Officer [Senator Aquino]. Resumption of consideration of Senate Bill No. 1235 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations.

I ask that the distinguished Chairman of the Committee on Banks, Financial Institutions and Currencies, Senator Roco, be recognized, and for Senator Guingona to continue his interpellation.

The Presiding Officer [Senator Aquino]. Is Senator Roco ready?

Senator Roco. Yes, Mr. President.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized.

Senator Roco. Thank you, Mr. President.

Before we commence, Mr. President, may we take this opportunity, while there is a quorum, to consider our new diligence.

May I just bring to the attention of our Colleagues certain things about the P300 billion losses and liabilities because there is an editorial in one of the papers.

One of the differences between the Senate version and the House version is how we treat the P300 billion losses and liabilities. The argument is always stated that if we pay, we must pay now for the P300 billion so that the Monetary Board and the Bangko Sentral, the new CMA, will become independent. That is correct, Mr. President. If we pay now the P300 billion, they will become independent of us; they will become independent of the Republic; they will become independent of the Filipino people.

Independence, however, Mr. President, is not the only goal desired or sought by this bill. It is independence with accountability. It is independence with responsibility. We do not want to create a bastion of privilege; we do not want to create a

Central Monetary Authority, a Bangko Sentral or a new Central Bank that is independent of the Filipino people. That is not the intention of the Constitution. Therefore, I would like to call attention to that because it is very important.

Apparently — and I have not yet seen the version of the House — what they proposed to do is give a promissory note — effectively if they call it bonds, but the finance men have to have two nice terms for what ordinarily will be known as a “PN” or a promissory note. A promissory note will be given to the new Bangko Sentral, or whatever they may call it, worth P300 or so billion. It will be payable over 25 years which means, Mr. President, like us who have borrowed money for our cars, when we have a promissory note, we pay interests. So, on a yearly basis, the National Government must pay interest on that promissory note. Why should we give them a promissory note? I had asked for a business judgment to support that recommendation and they never gave me any business judgment that will support our giving a promissory note for that amount of money.

On top of that, Mr. President, we will now pay interest yearly, but at the end of 25 years we still have to pay P300 billion. So, it is very nice for the Central Bank. We will pay interest to our creditors yearly, but at the end of 25 years we will pay another P300 billion.

I have asked the technicians, the economists and people: “How about that, how does the Gentleman explain that?” And they said, “Well, maybe after 25 years we will restructure again.” Well, if somebody will be around to argue for another restructuring, Mr. President.

So, that is why we could not quite accept the proposal of just paying P300 billion.

In addition, Mr. President, I think it is not allowed by the Constitution. Every year we must appropriate money. I do not believe that Congress can appropriate for 30 or 25 years, so that it is an eternal mandate for them to spend public money with the least accountability.

Our Committee’s version, Mr. President, suggests independence because we give them the means to be independent. But we also suggest accountability on a yearly basis and responsibility in expending the people’s money.

They object, Mr. President, because they do not like to be coming to Congress because it will lessen their independence. Well, even the President comes to Congress. All departments of government come to Congress. So if they want to be independent of Congress, for that reason alone, we should not agree, Mr. President. All of us must live within the constraints of constitutional reporting.

Mr. President, I thought I will call attention to that because I understand even the Gentleman from Mindanao, I am sure, shares the same desire to have accountability and independence.

With that, Mr. President, we are ready to answer questions.

The Presiding Officer [Senator Aquino]. Senator Guingona is now recognized.

Senator Guingona. Thank you, Mr. President.

We appreciate the comments of the distinguished Sponsor as far as the promissory note is concerned. But in a situation, for example, where we have deposits by the National Government with the Central Bank and the Central Bank is paying interests in some and no interests in others, and since it is the National Government which must capitalize the Central Bank anyway, would the distinguished Sponsor agree to some sort of capitalization through these means of utilizing the nonbearing deposits to be the capital, say, P30 billion or P50 billion?

Senator Roco. The Committee is open to that idea, Mr. President, as long as there is informed judgment by the new Monetary Board. But that is not precluded under the terms of Section 127. That can be done, Mr. President. I hope it will not be P100 billion.

Senator Guingona. No. The NAPOCOR capital is P15 billion and I understand the PNB is about P30 billion. So P50 billion would be still rational.

Senator Roco. Yes, Mr. President. Again, the Committee is not objecting to the concept. What we ask, in fact, for the technical staff to do is to get a certification from the DBM that such will be available, that it can be utilized for this capitalization and, maybe, we also ask the Treasurer of the Philippines to tell us that this would not harm the operations because we must consider them.

The advantage of the House, Mr. President, is when they discussed these appropriation measures, they already have the certification. In our case, we have to rely on the House.

Senator Guingona. In addition to that, the payment of interests by the Central Bank represents a very substantial sum. So if we are going to help establish a new institution, perhaps, that should also be considered in eliminating the liabilities.

Senator Roco. It was our intention, Mr. President — and they can look from the records what our intention was — that when we used the terms “creative accounting” and similar other measures, such offsetting and other ways and means can be resorted to.

Senator Guingona. May I ask what measures or safety nets there are in this bill that will minimize or prevent similar occurrences of having a P308 billion liability?

Senator Roco. No. 1, Mr. President, is the deletion of the suspense account called "Monetary Adjustment Account" and the deletion of the "Exchange Stabilization Adjustment Account."

No. 2, is the very detailed reporting requirements which gives Congress not only an oversight function, but an actual up-to-date picture of what they call, I think, monetary aggregates.

Senator Guingona. Of the total revaluation account, what would be the amount that would be carried by the new Bangko Sentral?

Senator Roco. Nothing, because under the present law, that is supposed to be taken as against future profits, against only a certain profit. This was the one that was pointed out by former Deputy Governor President Singson. All we have to do is, we preserve it here, and the RIR will be treated in accordance with the present law.

Senator Guingona. Yes. It will not be retained with the Central Bank.

Senator Roco. With the Bangko Sentral, no. It will be retained with the old Central Bank. If the Bangko Sentral in the future creates a situation so that they have profits from which to deduct the RIR losses, then it will be deducted; otherwise, we just preserve RIR and wait for the time when the provisions of Section 44, I think, can be complied with.

Senator Guingona. Yes. I just want to be enlightened. How much of the RIR account will be retained with the old Central Bank?

Senator Roco. All the RIR will remain with the old Central Bank.

Senator Guingona. All?

Senator Roco. Under our proposals, yes, because the new Bangko Sentral will have its own revaluation account.

Senator Guingona. So that the Bangko Sentral will have a new fresh start.

Senator Roco. Yes.

Senator Guingona. And any differentials will now be lodged in the suspense accounts.

Senator Roco. Only as far as the revaluation account is concerned.

Senator Guingona. Yes.

Senator Roco. Yes. The Bangko Sentral will have its own RIR treated according to Section 44(b).

Senator Guingona. How about the cost of minting and issuance of currency?

Senator Roco. They will be logged as expenses. They will be an outright cost.

Senator Guingona. They will be part of operation.

Senator Roco. Yes, I guess. Then whatever normal way the accountants deal with it, if one spends money, he puts it under operation or whatever, if it will not be kept in suspense anymore.

Senator Guingona. Mr. President, last night the distinguished Gentleman said that the members of the Monetary Board, especially the permanent ones — full-time ones — will not interfere in management because that is left to the Chief Executive of the Bangko Sentral. Now, would it not be good since these are men of proven experience, most likely in banking, to allow the Governor of the Central Bank to allocate to them, if in his judgment there is a need, similar to the DBP structure where the Chairman of the DBP allocates certain departments for supervision, but only if the Central Bank Governor deems it advisable to help him and, therefore, for him to delegate, if that is feasible, so that, first, it will help the Bangko Central; and, second, the full-time members will have something to do other than attend meetings and look over the figures and study?

Senator Roco. Mr. President, it is a policy choice with us. I do not feel negative about the suggestion.

Let me just call attention to certain things. First, I think the ability to delegate power which is under broad administrative law principles, can be read into the law. So, whatever the governor can or may do, he may delegate, unless they are those expressly given to him as a chairman or as a governor.

So barring that standard, Mr. President, I agree that the Governor may, in the exercise of his own management functions, delegate power to a full-time member.

My own experience in the matter, Mr. President, in having seen it operate with corporations, and maybe it will not apply to the Central Bank, is that it becomes difficult when we make, other than full-time, directors actually employed as operating officers.

It becomes difficult to have board members, with collegial powers, trying to exercise individual powers. But if the circumstances bring about a situation where the Governor wants to delegate to a board member, I guess that is his management style, he will have to account for it, it is his problem, and we leave it to his discretion.

Senator Guingona. Thank you for that.

Mr. President, on page 4, line 22, under Section 5, it mandates that the governor and the members of the monetary board be subject to confirmation by the Commission on Appointments. I would like to manifest that I am, in principle, agreeable to this arrangement. However, does the distinguished Sponsor not believe that in view of the ruling in the case of Mison, and later amplified in the case of Bautista, the Chairperson of the Human Rights Commission, that the Supreme Court has already constricted? They may be right or they may be wrong, but that is the jurisprudence, it seems, at present. And since their interpretation is a constitutional interpretation, does the distinguished Sponsor believe that we may run afoul of the interpretation when we introduce this in legislation, because the Bautista ruling is a constitutional officer but without confirmation, and the members of the Monetary Board, although not stated to be appointed by the President, is a constitutional mandate in the sense that the creation was mandated by the Constitution.

Therefore, considering those interpretations, does the distinguished Sponsor believe that we still have to require confirmation by the Commission on Appointments?

Senator Roco. The Gentleman is absolutely correct, Mr. President. In fact, in the sponsorship, we called attention to it. We are trying to skirt the constitutional inhibition and we are calling attention to the defect. We tried to solve it by making the membership in the Monetary Board of Cabinet rank. In other words, we are trying, by law, to qualify them for confirmation. By giving them a Cabinet rank, then they are covered by the constitutional mandate for confirmation. Clearly — and I do not want the Supreme Court to ever suggest that we were not candid — this is a legislative effort to make it satisfy constitutional requirements. It could be ruled down.

We are hoping, Mr. President, that, first, because of the presumption of regularity, this one will continue and that, maybe, nobody will have any litigable interest in questioning it in court. So, it can continue that way. But it does serve a very valid public purpose.

Senator Guingona. Yes, Mr. President. However, may I point out that the referral to Cabinet rank in accordance with the jurisprudence — I think in the case of Noblejas — is that the reference to Cabinet rank is only as far as compensation or as far as remuneration is concerned, but it does not carry with it the

privileges or the qualifications and disqualifications of the office of a Cabinet member. And, therefore, if this is correct, the reference to the Cabinet-member status may not elevate the members of the Monetary Board to such status as to require confirmation, in accordance with the constitutional interpretation.

The Presiding Officer [Senator Aquino]. Just like, probably, Secretary Carpio who holds a Cabinet position but does not go through the Commission on Appointments.

Senator Guingona. Yes, Mr. President.

Senator Roco. We will look at the cases again, Mr. President, and try to reword so that it falls outside the guidelines of the case. And I am totally honest and candid. There is public good to be served by submitting them to the Commission on Appointments, and I will try to find a way of making it covered by the Constitution.

Senator Guingona. With the legal expertise of the distinguished Sponsor, I feel that there will be ample support for this, Mr. President. I just wanted to bring that out as a matter of caution. But the distinguished Sponsor will still insist on having some form, subject to confirmation.

Senator Roco. I think, Mr. President, considering the powers we are giving the Monetary Board, it is a good check and balance that they are subject to confirmation by the Commission on Appointments. I can even see my way clear to having it restricted. It may not be a good practice or, at least, we can put a guideline here that within one week, within two weeks, or certainly within the sixty-day period, when the Monetary Board is supposed to be constituted, the CA must act.

The Committee is open to such guidelines, Mr. President, because we do not want the tedious process in the confirmation. They are either approved immediately or rejected as soon as possible so that they do not bother us.

Senator Guingona. Considering that there are full-time and part-time members of the Board, would the distinguished Sponsor consider subjecting only the full-time members to confirmation and not subjecting the part-time members? For, after all, they only serve part time and they still retain their private personality and they could still be connected with businesses.

Senator Roco. The point is well taken, Mr. President. We can look at that at the appropriate time.

Senator Guingona. Thank you, Mr. President, during the course of the interpellations or during the sponsorship, I heard the distinguished Sponsor say that he did not want the Secretary of Finance to be a member of the Monetary Board. I may have been mistaken or I may have been uncertain.

Senator Roco. In the more than 20 various hearings and the more than 30 discussions we have had with different groups, there was a divided opinion on whether the Finance Secretary should be a member of the Monetary Board.

On balance, Mr. President, our Committee reached the conclusion that keeping finance and fiscal functions away from the new Central Bank is more advantageous to the Central Bank and the Bangko Sentral. In fact, some of our Colleagues have told me informally that they even want to have six members coming from the private sector so that there is no possibility of Cabinet member engaged in fiscal functions getting into the Monetary Board. Let the coordination and interaction be done in the level of the Cabinet or some other level.

Senator Guingona. One of the reasons is that the Secretary of Finance, if he sits in the Board as an extension of the personality of the President, would dominate the deliberations of the Board and, therefore, the fiscal policies could hold greater sway than the Monetary Board's decisions. Would that be a correct statement?

Senator Roco. It is very well put, Mr. President,

Senator Guingona. On the other hand, it is the NEDA Head, since it is the NEDA that is the economic planner and implementor of the Nation's policies, who should be the logical choice to sit in the Monetary Board.

Senator Roco. We have read the position of NEDA, Mr. President. But in both the Central Bank Act and the proposed bill, there is a specific section, which is Section 119, where coordination between the Bangko Sentral Governor and the NEDA is done. In fact, it is single-spaced to indicate that it is an old provision, and I quote:

In order to assure effective coordination between the economic, financial and fiscal policies of the government and the monetary, credit and exchange policies of the Bangko Sentral, the Governor of the Bangko Sentral shall be an ex officio member of the National Economic and Development Authority Board.

In other words, it is in the NEDA Board that they have the full coordination. I do not know whether that is sufficient. Really the Committee has no objection to NEDA. But it may be satisfied in another section.

I appreciate that some of our Members will really push for six members from the private sector, so that may render the debate academic.

Senator Guingona. Would the distinguished Sponsor have any objections to putting in NEDA, or requiring NEDA to be a member of the Monetary Board?

Senator Roco. The Committee is ambivalent, Mr. President, maybe, because of the different perspective from which NEDA is coming from. We accept the need for coordination, but that coordination should be in the NEDA Board. But we will discuss informally the relative advantages and disadvantages with the Gentleman.

Senator Guingona. At the right time.

Senator Roco. Yes, Mr. President.

Senator Guingona. Thank you.

Senator Roco. I understand from the Central Bank people that NEDA is something acceptable. But, again, we can leave that for another time.

Senator Guingona. Thank you. May I direct the attention of the distinguished Sponsor to Section 8, page 5, lines 21 to 24, on Disqualifications, which states:

A member of the Monetary Board shall not be a director, officer, employee, consultant, or stockholder of any bank, quasi-banks or financial institutions, or their subsidiaries.

But there are certain entities which may not be mentioned here, such as affiliates. In view of the fact that we have a universal banking system where investments can be made in other entities but still subject to supervision and regulation by the Bangko Sentral, would the distinguished Sponsor agree to including or specifying in the disqualification that he be inhibited from being director, officer, employee, consultant, or stockholder of any bank, quasi-banks or any other financial institutions which is subject to the supervision or regulation by the Bangko Sentral?

Senator Roco. Mr. President, if that is proposed as an amendment, it will, certainly, enhance the quality of the section. We will accept; we will be very happy, in fact, to reword it in that manner.

Senator Guingona. May I refer to page 6, Section 11. It states here: The Deputy Governors shall attend the meetings of the Monetary Board with the right to be heard.

Mr. President, there are certain meetings where deputy governors are not required because the agenda does not affect their departments. Their presence will only consume time and

effort, where they will just sit by and watch the proceedings. Would the Gentleman agree if we change this from "shall" to "MAY" and only require their presence when needed?

Senator Roco. A very good point, Mr. President. We will accept such an amendment. In fact, we might even introduce it, with the permission of the Gentleman, as a Committee amendment.

Senator Guingona. With pleasure, Mr. President.

May I go to the next item. On the same page, Section 12, on Remuneration, it states here:

The remuneration of the Governor of the Bangko Sentral and the full-time members of the Monetary Board shall be fixed by the President of the Philippines at a sum which recognizes the importance and responsibilities of the position: *Provided*, That their respective emoluments shall in no case exceed one hundred thousand pesos (P100,000.00) a month.

The phrase refers to "emoluments"; may we know the meaning of emoluments?

Senator Roco. In the context as used, Mr. President, it is the totality of salary, remuneration and other perquisites of the position. It was used with that in mind.

Senator Guingona. Mr. President, the distinguished Sponsor said yesterday that we want to attract to this Bangko Sentral the best and the brightest, the most patriotic and the most potent with proven experience. I would imagine that in real life, in order to be attracted, a known banker or a known industrialist, successful in his field of enterprise, would not be attracted to the P100,000.00 emoluments a month because he may be earning twice or three times that amount outside. And therefore, considering also inflation, could we limit this to salary instead, this P100,000.00?

Senator Roco. I just could not help but give this comment, Mr. President. The most patriotic will be, probably, attracted even by less. But that is not all that is required of the Member of the Monetary Board. We are also requiring competence and, as the Gentleman puts it in the real world, there are competing attractions for the interest of these potential board members.

In fact, Your Committee, Mr. President, has studied and has been shown the comparative salary structures of Monetary Boards just around Southeast Asia. And even with this recommendation, we are not even 25 percent of the normal salary structure for members of the Monetary Board or an equivalent body just in the neighborhood of Southeast Asia.

Our Committee, Mr. President, just did not have the will to suggest a higher salary. But if the consensus of our Colleagues in this Body can increase this, Your Committee will be happy to accept such proposals.

Senator Guingona. Thank you for that.

The per diems prescribed under the proposed remuneration is limited to part-time members of the Monetary Board. Should not the full-time members, considering that they also devote as much time, effort, contributions and inputs into the Board meetings, also receive the per diem entitled to part-time members?

Senator Roco. If that is allowed by law and practice, Mr. President. It is, probably, an oversight on our part that we were sticking per diem to only part-time. If full-time members of boards can also get per diem, again, your Committee will have no objections to deleting the terms "part-time."

Senator Guingona. On Section 13, page 7, lines 7 to 8, the lines state that the decisions taken on the matter shall be made public.

Senator Roco. Posting on the board of Bangko Sentral, Mr. President, is sufficient. That was the intention of the Committee.

Senator Guingona. So, how is this to be made public?

Senator Roco. Just post it on the board of Bangko Sentral. It is like notices of the courts. They post it on the board of the City Hall of Quezon City and it is made public. For those interested, they watch the bulletin board.

Senator Guingona. So that a citizen will have to move to the Bangko Sentral and look for the posted notice on the bulletin board.

Senator Roco. That is correct, Mr. President. I mean, we are open to other suggestions. We just did not want it to be overly burdensome. We can require, maybe, 20 bulletin boards. I am not sure. But it is the spirit — the spirit of making it public.

Senator Guingona. Supposing we just make it accessible to the public.

Senator Roco. The problem with the term "accessible" is, it requires bureaucratic discretion because somebody must open the files. And as we appreciate, Mr. President, that may sometimes be difficult and unnecessary.

In fact, we have a pending bill on The Right to Information Act — which unfortunately has not yet been reported — which requires immediate delivery of information sought to avoid this bureaucratic people coming in and then saying: "I want to find out according to this..." That is the reason there was a conscious choice not to use "accessible," so, we just comply. We have a rule of thumb in matters covered by Section 13, make it public, post it on the board, let anybody who wants to look at it, to look at it.

Senator Guingona. Yes. But usually, the public is not concerned with ordinary decisions and it is only the interested party who seeks to get the information. Now, if it is mandated by law that it will be made accessible to him, the bureaucracy cannot deny him that information.

Senator Roco. Normally, Mr. President, that is correct. Maybe, they cannot. When the clerk is not there or he is taking merienda, it becomes very difficult to get the record and we just want to avoid that instance.

Look at this, Mr. President — the principle of transparency is ingrained in this Section 13. For the benefit of our Colleagues who are not looking at the text right now, it says:

In addition to the requirements of Republic Act No. 6713, I think, that is the ethical disclosure — any member of the Monetary Board with personal or pecuniary interest in any matter in the agenda of the Monetary Board shall disclose his interest to the Board and shall retire from the meeting when the matter is taken up. The decision taken on the matter shall be made public.

This is a combination of two notions, Mr. President. One is taken from the Corporation Law where, if a director is interested in a contract, he must say: "I have an interest in that contract, and therefore, I will not participate in the vote, and you guys will have to approve it with a majority without counting me." So, that is one, and that is allowed under the Corporation Law.

In our own legislative disclosure requirements, Mr. President, we are required to declare parliamentary bias or what the Constitutional Commission was saying as parliamentary bias. If a member here, for instance, is a newspaperman or he has an investment in a newspaper, he must say: "I have an investment in the newspaper." And having said that, he can proceed to talk about the newspaper. Because otherwise, he will be deprived of his knowledge about newspapers.

This instance, Mr. President, is in addition to the Ethical Standards Law. The Monetary Board must disclose his interest and retire to make sure that everybody is kept honest. That portion of the minutes is posted in the bulletin board on how it was finally voted on. It is an additional requirement.

Making it accessible does not automatically... because he will be trying to have access to it, but putting it on the board simplifies all matters.

Senator Roco. Yes, Mr. President.

Senator Guingona. On Section 14(b) in the management, operations and administration of the Bangko Sentral, and the reorganization of personnel — this is, of course, in line with the

agreed principle that it is the Governor who is the executive officer.

Senator Roco. Yes, Mr. President. In fact, it says so somewhere else — I think, under the powers and duties of the Governor, the Governor shall be the chief executive officer of the Bangko Sentral, and chief executive officer is used in the manner which is understood in Management, in Corporation Law.

SUSPENSION OF THE SESSION

Senator Guingona. Mr. President, may I move for a one-minute suspension of the session.

The Presiding Officer [Senator Aquino]. The session is suspended for one minute.

It was 11:20 a.m.

RESUMPTION OF THE SESSION

At 11:23 a.m., the session was resumed.

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

Senator Guingona. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Guingona is recognized.

Senator Guingona. Mr. President, may we go back to the composition of the Monetary Board?

Senator Roco. Yes, Mr. President.

Senator Guingona. May we know the rationale for part-time Governors and part-time members?

Senator Roco. This was an effort at compromise and we want to be candid about it. The different guests and resource persons, some batted for all part-time and some batted for all full-time and the Committee noted good points for both. We could not split it 2.5. So, we gave more full-time because that seems to be the spirit of the Constitution, that we have full-time participation from the private sector. So, it is pure effort at compromise.

Senator Guingona. I see. But they will also be subject to the same disqualifications in the sense of no conflict of interest?

Senator Roco. Yes, Mr. President. They cannot have their cake and eat it, too.

Senator Guingona. Yes. Going to another item.

Mr. President, the intent of the measure under consideration is to remove the Bangko Sentral from the Standardization Law, from the ordinary constraints of government-owned or -controlled corporations, from the Civil Service system, and in lieu thereof, authorizing or mandating the establishment of a Human Resource Management System, et cetera. Is that correct?

Senator Roco. Yes, Mr. President. The Gentleman may also wish to relate it to Section 128 on the Mandate to Reorganize, and Section 126. Let me just put on record so that again the record will reflect the totality of the intention.

It was the intention, Mr. President, to put it outside the Standardization Law. We are aware of the arguments against this but, again, it is a policy choice and we hope that our Colleagues may find it in their best judgment to agree with the recommendation of the Committee. We are calling attention to it as a policy issue.

In Section 126, in the last paragraph, we say:

All incumbent personnel in the Central Bank as of the date of the approval of this Act shall continue to exercise their duties and functions as personnel of the Bangko Sentral subject to the provisions of Section 128: *Provided*, that such personnel in the Central Bank as may be necessary for the purpose of implementing Section 127 may be assigned by the Bangko Sentral Monetary Board to the Central Bank.

This was meant to allay insecurity. We wanted it made very clear, Mr. President, that our people working in the Central Bank need not be unduly alarmed or anxious with the passage of this law. In fact, we want to create high morale upon the passage of this law.

Section 128, however, the Mandate to Reorganize, is more specific and this is now under the Transitory Provisions. It says:

The Bangko Sentral shall be reorganized by the Monetary Board, which may include adopting an entirely new staffing pattern and organizational structure to suit the operations of the Bangko Sentral under this Act, and personnel who may not be retained are deemed separated from the service. No preferential or priority right shall be given to or enjoyed by any personnel for appointment to any position in the new staffing pattern, nor shall any personnel be considered as having prior or vested rights with respect to retention in the Bangko Sentral or in any position which may be created in the new staffing pattern, even if he should be the incumbent of a similar position prior to reorganization....

And then this is important, Mr. President:

The formulation of the program of reorganization shall be completed within six (6) months after the effectivity of

this Act, and shall be fully implemented within a period of six (6) months thereafter.

So, there is a one-year transition period, Mr. President. And we hope that after one year, everything becomes then stabilized

Senator Guingona. Would this mean that an incumbent Director can be demoted?

Senator Roco. As a legal proposition, I guess, yes. As a management proposition, it may not be good policy for the managers to do that, because it is simpler to retire or terminate or to ask them to go elsewhere than to demote. It is disincentive. It does not create good impact on the office. But in terms of legal power, I guess we can.

Senator Guingona. Does not the present Central Bank already have rules and regulations concerning promotions placements, et cetera?

Senator Roco. The Civil Service, as I understand it, has. The Civil Service rules will apply.

Senator Guingona. So if there is a reorganization and a Director or Assistant Director feels aggrieved, what is his recourse? To whom does he appeal the demotion or dismissal?

Senator Roco. Let me just call attention to Section 122, Mr. President, on the applicability of the Civil Service law. It says:

Appointments in the Bangko Sentral, except as to those which are policy-determining primarily confidential or highly technical in nature, shall be made only according to the Civil Service Law and regulations: *Provided*, That no qualification requirements for positions in the Bangko Sentral shall be imposed other than those set by the Monetary Board: *Provided, further*, That, the Monetary Board Governor, in accordance with Sections 14 (c) and 16(d) of this Act, respectively, may without need of obtaining prior approval from any government agency, appoint personnel in the Bangko Sentral x x x

Officers and employees of the Bangko Sentral, including all members of the Monetary Board, shall not engage directly or indirectly in partisan activities or take part in any election except to vote.

The particular situation, I understand is, supposing somebody has a complaint about his compensation, is this correct?

Senator Guingona. About the reorganization.

Senator Roco. The Civil Service laws will have to prevail.

Senator Guingona. So he appeals to the Civil Service.

Senator Roco. Whatever the normal procedure. We are not creating new procedures here.

Senator Guingona. Since the standards now will no longer be the same standards, there will be a new Board of Management, et cetera.

Senator Roco. Yes.

Senator Guingona. Will the standards be of the Civil Service itself? There may be a conflict between the Civil Service rules and the new standards set up by the management.

Senator Roco. The Monetary Board will have to be guided by the Civil Service laws.

Senator Guingona. I see.

The government usually issues rules and regulations, Executive Orders, et cetera, pertinent to government-owned or -controlled corporations. Would the term "government-owned or -controlled corporations" still apply to the Bangko Sentral? Or, should we make it clear in the bill that unless specifically alluded to, the Bangko Sentral will be excluded, in view of all of these exclusions?

Senator Roco. The term "government-owned and controlled corporations," Mr. President, is defined under several laws. Therefore, they apply depending on which law the Gentleman is referring to.

In the view of the Committee — and this is my own preference, Mr. President — the Central Bank is not a normal government-owned or -controlled corporation, in the sense it is used in the Investments Law, in the sense it is used in the MDC Charter. It is different, although, evidently it is a public corporation in the Administrative Law, since it is a mandated Charter by the Constitution. We might say, it is a semi-constitutional body, because we are required to create it. It is a corporation we are creating by special law. So, it is not quite the same as GOCCs or government-owned corporations.

The studies indicate definitions. But if our intention is to be followed, Mr. President, we leave it to the courts later on to define the in-between. As far as this Committee's intention was concerned, it was the intention to create *sui generis* in the Central Bank. It is owned by the government, but not quite government-owned or -controlled corporation as defined now by various laws.

Senator Guingona. The measure also provides that the Bangko Sentral may indemnify its members, officers or employees against all costs and expenses incurred in connection with any

civil or criminal actions, suits or proceedings to which he may be made a party by reason of performance of his functions or duties, unless he is finally adjudged in such action or proceeding to be liable for negligence or misconduct.

Does this refer to ministerial duties alone or would it refer to discretionary power?

Senator Roco. It will refer to supervision and examination of functions. So, there is large discretionary aspect here.

The concept, Mr. President, is that one of the constant requests is to remove the paralysis from some offices in the Central Bank because of the threat of suit. When one is examining a bank, especially the banks with tremendous problems, it can threaten one with suit. And so, the examiner, the supervising examiner or whatever they call it, hesitates and that hesitation should be removed. They must have access to other remedies. They will have to figure out other remedies.

So, the only known remedy to me, Mr. President, against this paralysis created by threats of suit is something we have met, again, in Corporation Law — the indemnification clause. Directors for taking on responsibilities and calling the judgment call must be given indemnity for their legal cost if they were performing their duty and there was no malfeasance. That is the one which we are introducing as a concept, Mr. President.

Senator Guingona. And to do this, Mr. President, the Governor would be authorized to hire lawyers and engage counsels?

Senator Roco. Let me demonstrate by example, Mr. President, what I meant by parliamentary bias.

Because my name is carried in a law firm, Mr. President, I must declare a parliamentary bias being an only partner of a law firm. Having said that, let me now state: All the bills recommended that Bangko Sentral and the Monetary Board be authorized to hire external counsel. I called attention to parliamentary bias because someday, considering the limitations we have, I will have to go back to the law office and, maybe, they will have an interest in the matter. But the consolation is — I think it is true not only of the Gentleman's bill but all the bills suggested that this be so — the Monetary Board or the Central Bank Governor may hire external counsel.

Senator Guingona. I thank the Gentleman for that.

On the question of indemnification, for example, would the persons not performing supervision examination functions also have the benefit of this indemnification?

Senator Roco. As I understood it from the Central Bank officers, Mr. President, aside from the Monetary Board, they are really the ones who are exposed to certain litigations in the performance of their duties. If we will expand it to others, let us say, a security guard of the Central Bank may get into a traffic violation, that may not really be appropriate to be covered as his legal expenses. If a security guard beats up somebody who is climbing over the wall and he is charged with physical injuries, I guess it should be the security section which will be worrying about him and to justify whether he was on the legal side or not. But this one, Mr. President, was intended to avoid any change in the essential supervision and essential monetary functions of the Central Bank. That is the narrow guideline for indemnification.

Senator Guingona. Supposing he is a conservator and he makes a report. In the report he is charged in court for having made a mistake in the report. Would he not be entitled to indemnification?

Senator Roco. The conservator may or may not come from the officers and employees of the Central Bank, Mr. President. If he comes from the Central Bank, the same indemnification clause will protect him. Somebody who comes from outside competence will not be extended the same protection. He is above 21. We assume he is guided by legal counsel and he is on his own.

Senator Guingona. Would it not be better to extend the protection to all those who perform official functions for the same rationale, for the same principle?

Senator Roco. Mr. President, the Committee is willing to examine this. The conservator may have been a bad example because in the case of a conservator, it tends to create litigious instances. Between the conservator and the old or the incumbent management, there will be normal differences of opinion. While we can examine the breadth of the indemnification clause, the conservator will have to be treated as a special matter.

If the distinguished Gentleman, for instance, is appointed conservator, no manager in the world will ever agree that the conservator knows better than he does, especially if he has been around for ten years. So we may have to focus on the conservator as a peculiar example.

Senator Guingona. I have many more questions but since Senator Shahani would like to interpellate, with the permission of the distinguished Sponsor, I would yield temporarily, Mr. President.

The Presiding Officer [Senator Aquino]. Will the Secretary please note that.

We will now recognize Senator Shahani.

Senator Shahani. Thank you, Mr. President.

I would like to thank Senator Guingona for yielding his place. I wonder whether our distinguished Colleague, who is the Chairman of the Committee on Banks, Financial Institutions and Currencies, will entertain a few questions from this Representation, Mr. President?

Senator Roco. I will be honored, Mr. President.

Senator Shahani. Mr. President, going back to page 1, line 10 where the amount of P10 billion to be subscribed and to be paid for by the government of the Philippines is indicated as the capital of the Bangko Sentral. Of course, this is a very big amount and I take it that this will be a single subscription and payment for the government to take.

The old Central Bank Act speaks of an initial subscription from a definite source of appropriation, and that is the Exchange Standard Fund. Could we have a clarification, Mr. President, what is the basis of this single subscription and payment of P10 billion?

Senator Roco. Only the need for capital, Mr. President. In all the bills, including the Central Bank version, they sought a P10 million capital. In fact, this is one of the sources of the problem of the Central Bank that while P10 billion capital was authorized, in reality, only P10 million was paid in. And there were some accumulated surplus of, I think, P1 billion or some amount like that. But really, the present Central Bank was undercapitalized.

If the mandate of the Constitution is to give them greater strength, we must sufficiently capitalize the new Bangko Sentral. In fact, the Gentleman from Mindanao was suggesting not P10 billion, as proposed here, but even up to P50 billion. The source — again, we do not want to specify because it will unnecessarily inhibit the flexibility of the Monetary Board — as has been pointed out in the discussions so far, can in fact be from deposits of the National Government already with the Central Bank, except that, as Chairman, I did ask for certifications from the Department of the Budget and from the National Treasurer that if this is done, it will not necessarily handicap government operations.

Senator Shahani. Would this require legislation, Mr. President? Or how would that be effected since the present deposits of the government stand only at P130 billion?

Senator Roco. I did not hear the last part.

Senator Shahani. This transfer of funds, how would that be effected? Would that require legislation? The Gentleman has suggested that this could be done by a transfer of funds from the government deposits, but that is limited, Mr. President.

Senator Roco. This will suffice, Mr. President, in my view, but if we want to strengthen it and make it more specific, then we can. But the authority granted by Section 1 as regards the P10 billion will be sufficient, supported by the transitory provisions which give the new Monetary Board the ability to create accounting and other legal solutions to the financial problem.

Senator Shahani. Thank you, Mr. President.

Mr. President, a lot of the interpellations here has centered on the qualifications of the members of the Monetary Board, and I believe it is correct that the country should now examine who would sit in this body which has determined to a larger extent the fortunes of our Republic.

Our Colleague has said that there has been a lot of debate on the appointment of part-time members, and this is where I would like to address my question: If they are part-time members, would they still be involved in their own business interests? But as part-time members of the Monetary Board, they would have access to information; they can position themselves as far as the money market rates are concerned, for instance.

The bill says that they can inhibit themselves during the meeting; they will get up and not attend the meeting when something which is confidential is being discussed, but this does not prevent them, Mr. President, from having immediate access to information anyway, and we do not see any safeguard in this bill concerning this very great possibility. For instance, if the peso is devalued, I mean, they would have access to that information right away. I do not see any safeguards to that effect in this bill, Mr. President.

Senator Roco. That is a very good point, Mr. President.

There are safeguards. First, there is the Anti-Graft Law, which covers the specific instance cited by the Lady. There is also the Ethical Standards Law which can cover the use of information. The bill itself, under Section 15, gives other responsibilities. It says that any member of the Monetary Board who willfully violates or who is guilty of negligence, or who discloses information, et cetera, is covered by this section. I will call the attention of the Lady to page 9, Section 15. But the responsibility of Members of the Monetary Board as regards negligence, omission or failure to exercise extraordinary diligence is extended to the instances where a member of the Monetary Board discloses information of a confidential nature or any information on the discussions or resolutions of the Monetary Board, or about the confidential operations of the Bangko Sentral, unless the disclosure is in connection with the performance of official functions with the Bangko Sentral, or is with prior authorization of the Monetary Board. It also covers the use of information for personal gain or to the detriment of the government. He may not even have personal

gain, but if the government suffers, then that will be a violation of this law.

So there are provisions both under existing law and under the proposed bill, Mr. President, which we hope may cover that problem. But we are open, if insufficient, to other guidelines to demand greater accountability from the Members of the Monetary Board.

Senator Shahani. Yes, Mr. President, because these Members would still be subject to pressure from the private sector. I think that is an area where they might be independent from the President, the Executive and the Legislative. Maybe we could look into the area of pressure from the private sector. I think that would strengthen the independence of the Monetary Board.

Senator Roco. If the Lady would allow me, Mr. President, so that we are not out of perspective. Even a government official, even a full-time governor, even if he comes from government or he has been there for a long, long time, the possibility of sharing inside information is there. And so the mere fact that they come from the private sector does not necessarily mean that they will have a tendency to leak more. The mere fact that they are private and part time does not give them greater temptation. Maybe they have just greater opportunity to benefit, and we acknowledge the difference in situation. However, the fact is that inside information, even from people in the Cabinet, sometimes is leaked out, and I am not aware of a legal provision which will make them clamp up.

In American law, Mr. President, rules on inside information are volumes. Even the instance when a janitor picks up a carbon paper in the waste basket, that is covered by inside information rules. In due time, maybe the Philippines, as we evolve legally, will reach that point. But that is a tremendously difficult legal situation to address. I thought I would just mention it, because it may be relevant to the consideration of the Lady.

Senator Shahani. That is correct, Mr. President. What I would like to emphasize is the independence of the Monetary Board. I mean, when the Central Bank speaks, it has to be independent of... Just like the Federal Reserve Bank. The White House and the Congress and the private sectors know that it is an independent body. It could speak out its mind regardless.

Senator Roco. Yes.

Senator Shahani. And I think that is an issue which is not yet grasped in our country. Maybe, we will evolve to that, but the Central Bank, as we see it, is really just like another government unit. And to achieve that independence, I hope, Mr. President, is something that this Chamber will really pay attention to. I think we will do a great service to our people if we really can evolve a Central Bank which is independent.

Again, on the qualifications of the members of the Monetary Board. I think one of the weaknesses of our monetary system and our independence is that many of our financial authorities are closely linked with the World Bank, the IMF, the Asian Development Bank. Sometimes, we really do not even know where they belong. And, maybe, not so much the Central Bank but the Department of Finance.

We have undersecretaries of Finance who become consultants to the World Bank and to the IMF. And then, later on, they come back here and become part of the negotiating team of our debt, of our loans, et cetera. I think this incestuous relationship, if I may call it, has been one of the principal reasons why we cannot be independent of the World Bank and the IMF, Mr. President. All our technocrats are from the Department of Finance, Central Bank and the IMF-World Bank. So, where is the loyalty there?

Mr. President, I may be stepping on some toes, but this is the real fact. The Chairman of the NEDA becomes a consultant in IMF, as if there was no difference between the two, and as if all that was needed was technical know-how, on how to determine fiscal policy and monetary supply. I believe this has affected our independence as a sovereign Republic.

So, can we not add there that members of the Monetary Board should not be employees of multilateral institutions at least three years before their appointment? They should be prohibited. Otherwise, Mr. President, we will have lower ranking foreigners dictating to our Governor of the Central Bank or to our Secretary of the Department of Finance, because they used to be colleagues before, and there is, after all, a brotherhood or sisterhood among international technocrats. I hope that our distinguished Sponsor will address what I would call a very basic problem.

Senator Roco. We share the concern of the Lady, Mr. President, and we hope with the same fervor. And we are open to amendments later on, if this is so desired.

Senator Shahani. Thank you, Mr. President.

May we go to the functions of the Chairman of the Monetary Board. Of course, here, the Chairman represents the Bank, but this was a concern, if the Chair remembers, Mr. President, of the 8th Congress of this Chamber, that the Governor of the Central Bank is always going abroad, together with the Secretary of the Department of Finance to negotiate our loans, our grants themselves, with the World Bank or IMF.

There are certain occasions where no less than the Governor of the Central Bank should go. But we were concerned that the chief negotiator should be somebody else, unless the Chairman's presence is necessary. Because, actually, when our Chairman

goes to Washington, he does not meet with the President of the World Bank or the President of the IMF, but he meets with the directors, with the lower ranking people. And I think this affects the stature of the Governor of the Central Bank of the country. It lessens his negotiating flexibility.

I believe that we should put in front, in some of these preliminary negotiations, certainly not the Central Bank Governor nor the Secretary of Finance but a lower ranking official. But it seems to be the pattern that the Governor of the Central Bank and the Secretary of Finance are always on the go negotiating abroad when really they should be staying here and giving the instructions to their negotiators abroad.

May we know why this, I would call it, pattern of behavior or this negotiating style seems to be perpetuated in our country today, no matter what administration comes into place?

Senator Roco. I share the concern of the Lady, Mr. President, on the very pathetic habits of our Governor and Secretary of Finance. I am open to any suggestion that will, in fact, restrict the Governor and the Chairman of the Monetary Board to a more focused attention on monetary policy.

Senator Shahani. It is not so much his traveling. I think it is more on the representation. I think that just because the meetings are held in Paris or Washington, it does not always mean that we need to send our highest ranking people there. This is something that is not quite understood at the domestic scene. I think in the international level, it is appreciated if a kind of ranking is strictly observed. This has something to do with the dignity of the country as well as the seriousness with which we approach the issues before us.

To the reporting system, Mr. President, which I think is important — and I am glad to see that the matter of transparency should be given attention to — I remember when we tried to understand the issue of our external debt and how come we arrived at that situation, it was very difficult to get any definitive information from Central Bank. We were sent from office to office, and eventually we were briefed by the Central Bank. But I was quite surprised that it was difficult to get the report of an issue which is so important.

So, I hope that this bill will make it easier for those of us in government to have access, not only to the regular reporting system, but access to documentation.

I would also like an amendment — I would like to propose it later on — that there should also be documents for the public, because sometimes this financial language is so complicated. I mean, it becomes very complicated for lay people like myself that

we somehow give up in despair in trying to understand it. I feel that the taxpayers who sweat it out in this country have a right to know how the money is being controlled and maintained.

But this, again, does not seem to be a tradition in the Central Bank. I believe they should have a public information office, Mr. President. Because now the people feel that their sufferings are so closely linked with the decisions of these supposedly wise people, and their actuations are not really understood. I wonder whether the Chairman would accept that.

Senator Roco. Yes, Mr. President. In fact, if the Lady would be so kind as to coauthor a right to information bill that we have filed, it might be an appropriate area for requiring all this public information.

Just in deference to the Central Bank, the transparency is not only required. It may be a good time to repeat, Mr. President, an information we called attention to that, here, the duty of the Central Bank officials does not only refer to violation of giving false information or not giving information when required, but even furnish misleading information.

In other words, let us assume a Central Bank governor, because of superior skill and knowledge of the financial statements gives the Senate a series of facts which are correct, but which are positioned in a manner that make us reach a misleading conclusion or we are misled into reaching a conclusion. That is already a punishable offense. There are legal standards for that, Mr. President.

So, in addition to the amendment that the Lady may wish to propose, we thought we would call attention to that because it is another disincentive. Again, technical people may utilize their superior technical knowledge to mislead policymakers, whether intentionally or unintentionally.

Senator Shahani. Thank you, Mr. President. I think that is an important point, especially to those of us who are in the Legislature who are not natural experts in financial and monetary issues and, yet, are tasked to legislate on these matters.

Senator Roco. In fact, Mr. President, it is part and parcel of representative democracy that they do not put expertise or technical competence in certain areas of human endeavor as a qualification, because that is anti-democratic. So we have to rely, as policymakers, on what we are informed and how we are educated by technical people who have superior skills.

Senator Shahani. Would the distinguished Chairman entertain a provision on the Central Bank having an office of public information?

Senator Roco. Yes, Mr. President. It might be a more appropriate decision, though, of the Monetary Board because we describe certain departments. But by putting on record our intention of transparency, we may induce the next Monetary Board to create the body by themselves.

Senator Shahani. Thank you, Mr. President.

Section 112, which deals with issues and negotiations of the Central Bank obligations, authorizes the Central Bank to issue its own liabilities; that is, the Central Bank bills, otherwise known as the "Jobo bills." These are issued in its open market operations.

In this regard, the Central Bank may buy and sell securities issued by the government, the private sector, and by itself to influence the volume of money in the domestic financial system. Does the Gentleman think that the Central Bank should still continue to issue its own interest-bearing liabilities like the Jobo bills? Or should it not limit itself now to use government and private securities?

Senator Roco. As I understand it, Mr. President, it is an important instrument for the monetary authorities to either sop up excess liquidity or to release fresh money into the system.

That is how I understand the situation. But we can discuss at length with the Lady the relative advantages and disadvantages of this. Otherwise, we will only have treasury bills as a method, or the National Government will be burdened with sopping up excess liquidity. In which case, we will split the function or the monetary responsibility.

Senator Shahani. But, Mr. President, the government will again have to bail out the Central Bank, and I think this is a possibility which we should avoid in the future.

Mr. President, I would like to reserve my right to interpellate at a later date. I would like to thank our Colleague.

Senator Roco. We will be very pleased, Mr. President.

The Presiding Officer [Senator Aquino]. Thank you, Senator Shahani. I have here Senator Tafiada who wants to interpellate, but he might be running out of time.

All right. The Majority Leader is recognized.

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 12:09 p.m.

RESUMPTION OF THE SESSION

At 12:12 p.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1235

Senator Romulo. Mr. President, with the consent of the Chairman of the Committee on Banks, Financial Institutions and Currencies and the interpellators, I move that we suspend consideration of Senate Bill No. 1235 until next Monday.

The Presiding Officer [Senator Aquino]. Is there any objection? [*Silence*] The Chair hears none; the motion is approved.

Senator Romulo. Mr. President, we have an additional Reference of Business. May I ask the Secretary to read them.

The Presiding Officer [Senator Aquino]. The Secretary will please read the additional Reference of Business.

SECOND ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1251, entitled

AN ACT EXEMPTING THE MILITARY PERSONNEL OF THE ARMED FORCES OF THE PHILIPPINES FROM THE COMPULSORY COVERAGE OF THE GOVERNMENT SERVICE INSURANCE SYSTEM (GSIS), AMENDING FOR THE PURPOSE SECTIONS THREE (3) AND TWENTY-FOUR (24) OF PRESIDENTIAL DECREE NUMBERED ELEVEN HUNDRED AND FORTY-SIX (P.D. NO. 1146) OTHERWISE KNOWN AS THE "REVISED GOVERNMENT SERVICE INSURANCE ACT OF 1977."

Introduced by Senator Biazon.

The Presiding Officer [Senator Aquino]. Referred to the Committee on National Defense and Security."

The Secretary. Senate Bill No. 1252, entitled

AN ACT PROVIDING CASH INCENTIVES FOR EARLY RETIREMENT OR SEPARATION OF MILITARY PERSONNEL FROM THE ACTIVE MILITARY SERVICE OF THE ARMED FORCES OF THE PHILIPPINES AND APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

Introduced by Senator Biazon.

The Presiding Officer [Senator Aquino]. Referred to the Committee on National Defense and Security.

CONSIDERATION OF PROPOSED SENATE RESOLUTION NO. 440

(Expressing Profound Condolence and Sympathy for the Death of Honorable Fernando H. Lopez)

Senator Romulo. Mr. President, we have filed Proposed Senate Resolution No. 440. May we ask the unanimous consent of this Chamber to have it considered for approval this morning.

May I ask the Secretary to read the Resolution.

The Secretary. Proposed Senate Resolution No. 440, entitled

RESOLUTION EXPRESSING THE PROFOUND CONDOLENCE AND SYMPATHY OF THE SENATE ON THE DEATH OF HONORABLE FERNANDO H. LOPEZ, FORMER VICE-PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES, AND MEMBER OF THE SENATE.

WHEREAS, the Honorable Fernando H. Lopez, former Vice-President of the Republic of the Philippines and member of this august Chamber passed away on May 26, 1993;

WHEREAS, he had an outstanding performance as Member of the Senate for three terms: 1947-1949, 1953-1959, 1959-1965, and served as the President Pro Tempore from January 27, 1958 to December 30, 1965;

WHEREAS, with an unwavering commitment to serve the interest of the Filipino people, he bravely exposed abusive governmental acts, among which is the famous Immigration Quota Scandal;

WHEREAS, determined to carry on his great love for the Filipino people, he ran in 1949 for the second highest position of the land and was elected to such position and was reelected for

Senator Maceda. Is it my understanding that—I do not know, I may be wrong—Senate Bill No. 1207 was previously certified by the President?

Senator Romulo. Mr. President, what I have is the certification by the President of House Bill No. 8308, which is the bill considered by the Senate Ways and Means Committee, of course, in consolidation with Senate Bill Nos. 1027, 1207, et cetera.

Senator Maceda. All right. The Sponsor had said that the Senate bill was not certified. So, I must have been referring to the Central Bank Act.

Senator Romulo. That is correct, Mr. President.

BILL ON SECOND READING
Senate Bill No. 1235 — The New Central Bank Act
(Continuation)

Mr. President, I move that we resume consideration of Senate Bill No. 1235 as reported out under Committee Report 138, the new Central Bank Act.

The Presiding Officer [Senator Aquino]. Resumption of consideration of Senate Bill No. 1235 is now in order.

Senator Romulo. We are still in the period of interpellations. The speakers who have made reservations to interpellate are Senators Tañada, Romulo, Ople and Maceda.

I ask that the distinguished Gentleman from Camarines Sur and Bohol, the Chairman of the Committee on Banks, Financial Institutions and Currencies, Senator Raul Roco, be recognized, with Senator Tañada, the Minority Leader, to interpellate.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized, together with Senator Tañada.

Senator Tañada. Will the distinguished Sponsor yield to some questions, Mr. President?

Senator Roco. Happily, Mr. President.

Senator Tañada. Mr. President, the definition of the CMA's statutory objective is very, very important. And so, I would like to seek clarification on the manner in which it has been defined under the bill we are considering now.

Mr. President, based on what had transpired in our caucus, it seems that there are those who believe that the CMA should be limited primarily and solely to the objective of maintaining price and monetary stability. At the same time, there are those of us

who are concerned that such emphasis on price and monetary stability could result in a CMA which would be solely preoccupied with controlling inflation, in total disregard of the need to help in the promotion of economic growth.

I am not an economist, Mr. President, but I do understand that there are trade-offs and conflicts between the objectives of controlling inflation and helping to promote economic growth.

Under Section 2 of this measure, Mr. President, it is stated that the primary objective of the Bangko Sentral is to maintain price stability conducive to a balanced and sustainable growth of the economy. Could the distinguished Sponsor elaborate on this formulation, especially in the light of the concerns which I have just mentioned?

Senator Roco. Yes, Mr. President. First, let me try to disabuse the apprehension of the Gentleman that this may be the only objective. There was a studied and conscious effort to use primary. There are other objectives inherent really in central banking and the Committee is even open to look at, if we must articulate, other objectives.

But, in the course of all the hearings, Mr. President, the focus and the statement that it is the primary objective was critical. So that when there are debates in the Monetary Board, in the event there are conflicts—and there will have to be conflicts in objectives—we give a guide to the Monetary Board as to where their primary or where their priority lies.

Having said that, Mr. President, let me again reiterate what we mean by price stability, and we kept using this. We really refer to controlling of domestic inflation or to minimizing domestic inflation and preventing severely erratic variations in the inflation rate.

This is sought so that the people engaged in business, the people engaged in economic enterprise and economic activities shall have some rational predictability in their activities. That is what we mean by "price stability," Mr. President.

When we say, however, "conducive to a balanced and sustainable growth of the economy," as we articulated before, we meant that monetary policy should be neutral as regards various sectors of the economy. In other words, monetary policy, to the extent possible, should not be utilized in a biased manner to favor one sector of the economy or the other. And this is the advice given to me by economists. Like the Gentleman, certainly, this is not the field I am most at home in, Mr. President.

Senator Tañada. Mr. President, in providing for the attainment of price stability conducive to a balanced and sustainable growth, could we say that the CMA would be dealing with multiple objectives?

Senator Roco. Yes, Mr. President. But in the event there is a conflict, then they are guided by the words, "primary objective is to maintain price stability." We do not use "monetary stability." We do studiously use "price stability."

Senator Tañada. Suppose we have the Monetary Board set an inflation target of 5 percent. To be able to attain this, the Monetary Board considers it necessary to adopt a very restrictive monetary policy. On the other hand, let us say that the NEDA and the Department of Finance are pushing for an expansionary monetary policy to attain a growth rate of 4.5 percent. Given this situation, Mr. President, what policy would we expect from the Monetary Board, given its stated statutory objective?

Senator Roco. This is very important, Mr. President. I am not trying to avoid or evade the question. But before giving my opinion on the matter—and it is as good or as bad as anybody else's—let me focus on the concept of the bill.

The bill essentially recommends delegation of powers to the Monetary Board with very studied legislative standards. In other words, if the bill is acceptable to our Colleagues—what we are really saying, is the question posed by the Gentleman from Quezon are precisely the things that they should be worrying about and for which we will be paying them—or if the Gentleman accepts my concept of delegation, those problems we must give to them because the Constitution requires that monetary policies should be exercised by the new CMA, or in the absence of the new CMA, by the old Central Bank. So, we are mandated by the Constitution, in fact, to respect the superior primary jurisdiction and competence of the Monetary Board. That is a neat way of avoiding the question. I am calling attention to it because I do not want the Gentleman to feel that I am not being candid.

In reality, Mr. President, we as a Senate and the House of Representatives as a House, may find it very difficult, if not impossible, precisely to anticipate the multiplicity of factors involved in defining monetary policy. But just by way of trying to answer the query, because the Gentleman is entitled to an answer, let me give this as far as the bill is concerned.

As far as the bill is concerned, coordination between the projected economic target of NEDA and the Monetary Board will occur in the NEDA because the Governor sits with the NEDA in one committee. I do not remember the section. So, presumably, between rational economic minds, there must be some understanding between NEDA and the Governor as Chairman of the Monetary Board.

Finance. We do not want the Finance Secretary to be interfering with the definition of monetary policy because their interest in terms of revenue generation and in terms of spending is

quite different from the interest of the Monetary Board and the Bangko Sentral in terms of trying to control liquidity, in trying to assure price stability and in trying to control domestic inflation.

So the concern for Finance, if the Gentleman would help us, we will make it even clearer that finance and fiscal responsibilities should be elsewhere and they should not be trying to dominate monetary policy through the Bangko Sentral. I do not know if that satisfies the Gentleman.

Let me push some more. Supposing there is a conflict between the goals—because this is the problem posed by the Gentleman—then, I will go back to my original answer. The Monetary Board, in their best judgment with competent staff—presumably, they are the best and the brightest—will then consider all the variable factors and make a decision, if there is a conflict of goals, in favor primarily of price stability.

Senator Tañada. In other words, Mr. President, the Gentleman is saying in the example I gave, the Monetary Board would be well within its authority or jurisdiction to take such measures to counteract whatever steps may be taken by the NEDA and the Department of Finance to attain the growth rate that they had set.

Senator Roco. Let me give an information of fact furnished by the staff. Inflation targets are agreed upon by economic managers, which includes the Central Bank and later on the Bangko Sentral, which defines the monetary targets and are set accordingly considering the growth target, presumably, as coordinated and agreed upon by the economic managers.

So they have to work in tandem, they have to work in a coordinated manner, Mr. President, because there is only one economic pie that we are talking about.

Senator Tañada. So to further clarify the meaning of this definition that has been given in the bill under consideration, Mr. President, would the Sponsor be open to the idea that while the CMA's function will be primarily and solely related to the objective of maintaining price stability, would the Sponsor still be open to a possible formulation of certain safeguards which would address the concerns against an all-powerful and, let us say, inflation-obsessed CMA?

Senator Roco. Meaning, control of inflation?

Senator Tañada. Yes.

Senator Roco. Yes, we are open, Mr. President, to suggestions. I do only have one caveat. It must be discussed with the technical group. As I have stated from the beginning, it is not my area of expertise so I could not commit immediately.

But subject to that caveat, Mr. President, of course, the Committee would welcome all suggestions that will improve the bill.

Senator Tañada. Thank you, Mr. President.

In the initial draft of the Committee Report, Mr. President, Section 5, which pertains to the composition of the Monetary Board, did not include any government representative. I believe the exclusion of any government representative from the Monetary Board would have taken the concept of the CMA's independence too far.

My concern is that there would not be any body left to argue the government's fiscal considerations before the Board. But I notice now, Mr. President, that this has been changed and that the present measure now provides for the inclusion of a Cabinet member in the Monetary Board.

I note however, Mr. President, that Section 5, paragraph (b) leaves discretion to the President as to the designation of the Cabinet member. Could the distinguished Sponsor explain the rationale behind this provision? Would it not be preferable for us to specifically designate the government's representative to the Board?

Senator Roco. The Committee is open in this regard, Mr. President. The reason for looking to the President as the one who designates is because the appointing power, I guess, is always with the President. So we could not resolve; we were debating. There is the request for NEDA to be represented.

There were equal moves to make the Secretary of Finance be the representative. But others, maybe the Secretary of Trade, I do not know. Whoever else may have expertise may be designated. So we thought of the flexibility; we leave to the President, who, after all, will have the principal responsibility of trying to constitute.

So that if we were to get, for instance, experts already from the private sector who can involve even financial expertise, then Finance certainly will be totally unnecessary.

Senator Tañada. Would it be correct, Mr. President, that it would not be all right as far as we are concerned if the President would appoint the Secretary of Finance to the Monetary Board?

Senator Roco. Personally, Mr. President, I think we should invent words, and we will appreciate help from the distinguished Gentleman. We should put words here that we should not allow that.

In my understanding — after listening to various resource persons and reading various publications — I have reached my

own personal conclusion, Mr. President, that it is better that Finance is not there. So if we can put it there without them, it is even better.

Senator Tañada. I join the sentiment expressed by the distinguished Sponsor and for that reason, I was wondering if we could already put in the bill a provision that would indicate who will be the government representative, and the NEDA Director General could very well be that representative.

Senator Roco. Yes. In fact, I would accept such a proposal, Mr. President. Again with one caveat, there are among our Colleagues those who prefer six private industry representatives. In fact, the Majority Leader is just showing his approval of that concept.

So if that is accepted, evidently I could no longer accept the second proposal. And to me, both are acceptable so we can discuss it and arrive at a consensus on the best option, Mr. President.

Senator Tañada. Thank you, Mr. President.

The next point I would like to raise on this matter is the question of providing for, say, a restriction or prohibition on future employment for those who have become members of the Monetary Board.

In the Marcos years, Mr. President, we saw that after their stint in government, a number of these technocrats would join the private sector and in the case of some of them, I understand, they would get to be employed by the World Bank and the International Monetary Fund. Now, rightly or wrongly, there were insinuations that those who obtained these jobs in the World Bank and in the IMF got their "reward" because of the position they had taken when they were occupying those government positions, particularly when they were involved in debt negotiations with our creditors.

I submit, Mr. President, that there may be some ethical considerations in such situation. For instance, we could have a case of a Bangko Sentral employee in the Supervision and Examination Department who, after resigning from the service, joins a commercial bank which was previously under his watch. Or a former Bangko Sentral governor could opt to join the World Bank. So to remove such impropriety, whether perceived or real, would the distinguished Sponsor consider some kind of restriction on post-CMA employment?

Senator Roco. Mr. President, in principle, there is no objection to the suggestion. In fact, in our view, that may be covered already by the Anti-Graft Law or the Ethical Standards

Law. The suggestion really partakes of the nature of a refinement of the Anti-Graft prohibition of being engaged in any business over which a government employee had jurisdiction within one year from his retirement.

In my view, it does not have to go downward supervision. It can be upward in the sense of extraterritorial bodies with which the Bangko Sentral may have dealings. So, the principle is, to me, Mr. President, acceptable and I think it is already covered by law.

Having said that, the committee will accept well-phrased refinement of the Anti-Graft Law or the Ethical Standards Law. But having said that, Mr. President, we also do not want to frighten or to unnecessarily curb or intimidate possible employees of the Central Bank.

Growth in any company, Mr. President, will make a person acquire certain expertise which in later years, he, therefore, can utilize for his own professional advancement. And we do not want to deprive employees of the Central Bank of the same opportunity. So within those constraints, and subject to an appropriate well-balanced wording, the Committee is open to the suggestion. If necessary, we can even specify World Bank, IMF, or if we want to be optimistic, we can refer to international bodies that have continuing relationship with the Central Bank or which may have interest contrary or not necessarily coincident with those of the Bangko Sentral.

Senator Osmeña. Mr. President.

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

Senator Osmeña. Mr. President, with the permission of Senator Roco and Senator Tañada, it is already 8:00 o'clock in the evening. We have been working since 8:00 o'clock this morning, and we are all doing this because President Ramos wants us to finish some measures. However, I cannot find any Lakas Senator around here anymore. They should be the ones sacrificing, Mr. President.

So I am tempted to do something that Senator Maceda has done before. Perhaps we can suspend the session, Mr. President.

Senator Roco. Before we suspend, Mr. President, I am very happy that the distinguished Senator from Cebu feels exactly how I felt earlier in the Commission on Appointments when we had to take the burdens of other parties.

SUSPENSION OF THE SESSION

Senator Romulo. I move for a suspension of the session for two minutes, Mr. President.

The Presiding Officer [Senator Aquino]. The session is suspended for two minutes, if there is no objection. [There was none.]

It was 7:41 p.m.

RESUMPTION OF THE SESSION

At 7:46 p.m., the session was resumed.

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

Senator Tañada. Mr. President, I would like to move on to the next point. This refers to the requirement under Section 5 of the bill that all members of the Monetary Board shall be subject to the confirmation of the Commission on Appointments. I know that the distinguished Sponsor has already answered the questions of Senator Guingona and the other previous interpellators on this point. But I would just like to further clarify the matter.

I notice that Section 5 of the bill explicitly states that membership in the Monetary Board shall be equivalent in rank to a Cabinet position. And I take it that it is because of this statement in the bill that the Sponsor believes that we could get around the constitutional issue and the decisions of the Supreme Court in the cases of *Sarmiento vs. Mison* and *Bautista vs. Salonga*. Now, I am not too clear about this, Mr. President, although I believe that the members of the Monetary Board should really be subject to the confirmation of the Commission on Appointments in view of the awesome powers that are being given to them. I am at the same time aware that in the case of *Sarmiento vs. Mison*, the High Court, to emphasize the point that it was making, said that appointment of the Central Bank governor would be one which requires no confirmation by the Commission on Appointments even if he is higher in rank than a colonel in the Armed Forces of the Philippines or a consul in the Consular Service. That was explicitly stated by the Supreme Court in the case of *Sarmiento vs. Mison*.

So, Mr. President, does the distinguished Gentleman believe that by saying in the bill that membership in the Monetary Board is equivalent in rank to a Cabinet position, that by virtue of that we would have already gone around that statement of the Supreme Court?

Senator Roco. Mr. President, I think it was Senator Guingona or Senator Romulo who also called my attention to the inadequacy of this qualification. And in fact, what we have here in my draft is an effort to amend it at the appropriate time.

Senator Tañada. I see.

Senator Roco. So that, what we will do is make the Governor head of a department, since we can consider this department, and having the head of the department confirmed by the Commission on Appointments seems easier. So we will say: The Governor shall be head of a department, effectively we shall declare by legislative fiat that Bangko Sentral shall be equivalent to a department and therefore shall have cabinet rank, or words to that effect, subject to refinement.

It means, however, Mr. President, in an effort to subject them to the Commission on Appointments, that we cannot subject all.

So, again, we will welcome the help of the Gentleman here. We may have to limit to satisfy the Constitution and the rulings of the Supreme Court. We may have to limit it only to the governor or have a chairman of the Monetary Board, so that we qualify both under the cases and the constitutional restriction.

Senator Tañada. I am glad to hear about that, Mr. President. But perhaps, if that proposal will not push through, the Committee could consider other ways or possibilities by which some form of accountability and transparency could be instituted in the appointment process. Perhaps we could require the President to first publish a list of nominees to the Board, and then the public would be given a certain period of time, say 30 days, within which to submit any pertinent information, comment or objection to the appointment of a nominee.

Senator Roco. We are open to suggestions, Mr. President. In fact, we did think of a fall-back position in the event this is declared unconstitutional and under the separability clause, we still continue with it, with some kind of reporting to an Oversight Body, the appropriate Committee of Congress, can be done. But, the good thing about that is the reporting requirements under Section 37, Article V on page 26. The reports are fairly stringent and so it does make the Bangko Sentral fairly transparent. We will welcome suggestions on how else to make that clearer.

Senator Tañada. Thank you, Mr. President.

May I now move on to Section 9 on the matter of removal. Given the autonomy of the CMA, Mr. President, and its awesome powers, one cannot overemphasize the need for accountability. The problem is that, there may be some sort of trade-off between autonomy and accountability in this case.

For instance, there would be this need to insulate the members of the Board from political pressure, so the proposal to give the members of the Board a fairly long term of office, with security of tenure. This supposedly would ensure that the members would not be beholden to the appointing authority or for that matter to the political authorities.

On the other hand, security of tenure could come at the expense of accountability. We could find ourselves stuck with an incompetent Monetary Board for six years, let us say of runaway inflation and financial crisis.

Under that situation, Mr. President, would the Monetary Board members enjoy security of tenure?

Senator Roco. Under Section 9, Mr. President, the President may remove any member for four reasons. Two of them are fairly easy to ascertain. The first one, it is disqualified, under the provisions of Section 8, is basically self-inflicted. In fact, in my view it is like being deprived of qualification. Since he puts himself under the coverage of Section 8, then he has disqualified himself and the operative act is just the precedent.

Being incapacitated physically, that is also easy.

The third disqualification, Mr. President, is where there must be a balance between accountability and independence because it is a judgment call. But fortunately, it is a judgment that if read properly is given to some judicial or quasi-judicial or administrative body with competent jurisdiction to determine guilt, guilty of acts or operations which are fraudulent or illegal in character.

So, to me, this requires either judicial, quasi-judicial or competent administrative jurisdiction or which are manifestly opposed to the aims and interests of the Bangko Sentral. That, I grant, Mr. President, has a subjective slide, has a subjective range. But we must assume reasonableness on the part of the President.

The fourth disqualification, Mr. President, again has the same explanation as the first.

Senator Tañada. Is this not exactly the same as the provision on removal presently embodied in Republic Act No. 265, Mr. President?

Senator Roco. There are amendments really. This basically comes under the old Section 9 of the Republic Act.

Senator Tañada. Would the distinguished Sponsor be open to expanding the grounds for removal? Specifically, Mr. President, given the twin considerations of independence and accountability, could we consider, for instance, as a possible ground for removal loss of confidence by the President? Of course, we may have to define in what instances the President could invoke such loss of confidence. But, for example, we could say consistent and inexcusable failure to meet policy targets or failure to avert a crisis in the financial system.

Would the distinguished Sponsor be open to that, Mr. President?

Senator Roco. As a disqualification?

Senator Tañada. Yes, as a ground for removal, loss of confidence.

Senator Roco. The Committee is open to all suggestions. By the way, I just compared Section 9 now to the old Republic Act No. 265. The new provision there really is only paragraph (b). Paragraphs (a), (c) and (d) are old provisions.

Senator Tañada. Thank you, Mr. President. I would like to move on to Section 12. Under this Section 12, Mr. President, remuneration for full-time members of the board is pegged at a maximum of P100,000.00 a month.

Assuming that their salary is fixed at its maximum, with five full-time members, that would be P500,0000 a month or a total of P6 million per annum. While I do recognize the need to recruit highly competent professionals to serve full time in the Board, does the distinguished Sponsor not consider P100,000 a month a little bit on the high side?

Mr. President, I am not familiar with the present salary scale in large private corporations. I do not know how much the compensation would be, let us say, of a chief executive officer in the private sector. But as I understand it, it will not only be this P100,000 a month remuneration. There would still be a per diem of P5,000 per meeting, but I believe this would only apply to part-time members. I am not also familiar with the per diems that the members of the Board in the private sector receive nowadays.

Is this amount of P100,000 a month reasonable, Mr. President?

Senator Roco. Mr. President, we were furnished studies on the comparative compensation of what would be equivalent to our Monetary Board under the bill in the Southeast Asian area. Even with P100,000, I think it is 25 percent of that of Singapore. We are very far behind.

Compared to private banks, and this is based partially on actual knowledge and actual exposure, the senior vice-president, for instance, in a private bank — and this is a compilation of data — gets something like P381,000 per month. The board of directors of some banks, on the bonus alone, can go as high as anywhere from P100,000 to half-a-million per month. We are not even talking yet of per diem or salaries.

So when we are talking of the moneymen and the money industry, this is very small. This is picayune. I do appreciate, Mr. President, it is thrice what the President of the Republic is going to receive.

The Presiding Officer [Senator Aquino]. Four times.

Senator Roco. Four times. And, certainly, five times, I think, of what we are receiving. But that is how the cookie crumbles. So it is a judgment call on our part if we want to make them just slightly inviting and we do not tax the patriotism of our potential Monetary Board members. That is how I see the situation, Mr. President.

Senator Tañada. Thank you, Mr. President. I was about to mention that these prospective appointees should consider an appointment to the Board as a call to public service.

Senator Roco. Yes, Mr. President. In fact, probably the hardest qualification under the Constitution is that of patriotism.

Senator Tañada. Correct.

Senator Roco. But when we look at a chairman of a major company receiving P10 million a year or a competing bank, the middle banks — let us not even take the top five because the top five are already hitting P20 million a year — but the middle banks may be earning P7 to P8 million a year, then it is difficult to blame them for wanting to be president even in a small bank, instead of the governor now.

I do appreciate the requirements of patriotism, and even this amount of P100,000 a month as a ceiling, really, in the context of the industry, may not be significant.

Senator Tañada. Still on the matter of compensation, Mr. President. Section 14, paragraph (c) provides that the Monetary Board shall see to it that its own system conforms as closely as possible with that provided for under Republic Act No. 6758. May I know from the distinguished Sponsor whether this proviso implicitly exempts the Bangko Sentral from the salary schedules established in the Salary Standardization Law?

Senator Roco. There is a separate provision, Mr. President, on exempting it from the Salary Standardization Law. Let me just find it, Mr. President.

May I have a one-minute suspension, Mr. President?

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 8:06 p.m.

RESUMPTION OF THE SESSION

At 8:08 p.m., the session was resumed.

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

Senator Roco. Mr. President, may I call the attention of the Gentleman to Section 14(c). As part of the effort to make the Monetary Board function well, aside from establishing a Human Resource Management System, there is a compensation structure mandated at the bottom of page 7.

The Gentleman may want to look at the top of page 8, which will be subject to "evaluation studies and wage surveys and subject to the Board's approval." The proviso will be interesting to the Gentleman: "Provided, That the Monetary Board shall make its own system conform as closely as possible with the principles provided for under Republic Act No. 6758."

In other words, we effectively increased the ceiling in RA 6758 and make them conform to the principles enunciated there, except that the ceiling is higher than Grade 35 or whatever the highest grade may be. So they will have to make adjustments to suit the model of Republic Act 6758.

Senator Tañada. Thank you, Mr. President.

Going back to Section 12, Mr. President, it states that the emoluments fixed herein, for example, the P100,000 monthly compensation for Board members, shall be the ceiling for fixing the salary, allowances, and other emoluments of all the other personnel in the Bangko Sentral.

As far as the progressive compensation structure provided in Section 14 is concerned, it would seem that P100,000 a month would serve as some sort of a salary cap. I mean, theoretically, we could have Bangko Sentral deputy governors receiving P99,000 a month. Would this be a correct reading of Sections 12 and 14, Mr. President?

Senator Roco. That is correct, total compensation package. Because there may be transportation allowance, his salary may really be P40,000. And some other perks may be defined by the Monetary Board. We will have to leave them some management

discretion in that regard. They may not, in fact, initially start with that kind of an amount. They may just increase, if they are subject to standardization now. So the Gentleman is talking really of P20,000 plus as the top bracket now. Even moving it to P40,000 is a 75-percent increase. We leave this to the judgment of the Monetary Board. If we find need for more guidelines, the Committee will be willing to look at the guidelines.

Senator Tañada. There is that phrase that the Board shall adhere as closely as possible to the rates set in the Salary Standardization Law. But at the same time, Mr. President, it could be possible that what we would have would be a rather expensive CMA and/or at the same time a demoralized rank and file who may find the P100,000-a-month salaries of their superiors quite unfair and extravagant.

Senator Roco. In the total context of the proposed bill, Mr. President, we are hoping that that would not happen in the sense that the expectation the Committee would have is, if they were to increase — let us assume only that they double — so that their highest salary will be P22,000. But assuming that to be the highest salary, then, even if they double, it will only be P44,000. But there must be a corresponding rational increase in everybody else, because we cannot assume that the Monetary Board will increase or will begin with an increase of their compensation and leave behind the people who are earning P3,000.

So, the rule of thumb, it seems to me, Mr. President, is to expect the Monetary Board to double everybody else. If the minimum wage is P3,000 in the Central Bank now and they double for whatever reason their compensation under these limitations, I would expect the P3,000 salaried employee to get P6,000.

Senator Tañada. Now moving on to the loans to directors, officers, stockholders and related interests, the so-called DOSRI loans, Mr. President.

Senator Roco. Yes.

Senator Tañada. Mr. President, one of the factors which allegedly contributed to the financial crisis in the 1980s was the failure of the Central Bank to strictly control bank lending to directors, officers, stockholders, and related interests. According to one's study, Mr. President, the lenient rules on this DOSRI lending led to unsound banking practices which led to bank failures. May I know from the distinguished Sponsor what changes have been introduced in this bill regarding this matter.

Senator Roco. May we call the attention of the good Gentleman from Quezon to page 15, Section 25, line 30. It says:

"Any director, officer or stockholder who, together with his related interest, has an outstanding loan or any form of financial accommodation from: (1) his bank; or (2) from a bank (a) which is a subsidiary of a bank holding company of which both his bank and the lending bank are subsidiaries —"

These are related interests.

"— or (b) in which a controlling proportion of the shares are owned by the same interest that own a controlling proportion of the shares of his bank, in excess of five percent (5%) of the capital and surplus of the bank, or in the maximum amount permitted by law, whichever is lower."

So we are trying to get the lowest amounts, Mr. President. Then that director "shall be deemed to have waived the secrecy of their deposits of whatever nature with banks in the Philippines."

This was an effort, Mr. President, to remove the veil that hides DOSRI or DOSRAS accounts. "DOSRAS" meaning the directors, officers, stockholders, related and affiliated subsidiaries, I think. So DOSRI and DOSRAS.

The moment they fall under any potential violation — and this is lower than the Banking Law, I think, this is a lower provision — then there is an automatic waiver of the Bank Secrecy Law insofar as director, officer, or stockholder may be concerned.

We hope, Mr. President, that that should dissuade normally reasonable businessmen from getting into a DOSRI or DOSRAS violation.

Senator Tañada. Mr. President, as I understand it, there is this provision in Section 25 which provides for a waiver of the secrecy on banks deposits.

Senator Roco. Only for directors, officers and stockholders, Mr. President.

Senator Tañada. Yes, the provision speaks of any director, officer or stockholder who, together with his related interests has an outstanding loan or any form of financial accommodation, et cetera.

Would this cover not only loans granted to bank officers in their personal capacity, Mr. President, but also loans granted to companies wherein said bank officers have financial interest?

Senator Roco. If they fall within the amounts prescribed, Mr. President, yes.

Senator Tañada. When we say "together with related interests," Mr. President, what do we really mean?

Senator Roco. Related interests — I am working on memory, Mr. President. But under the Banking Law, as I remember related interests, they could be subsidiaries or affiliates of corporations.

In this particular section, Mr. President, we refer to the bank or a bank which is a subsidiary of a bank holding company where the bank of the director or the officer and the lending bank are subsidiaries. It is defined on page 16, Mr. President. Or, where the controlling proportion of the shares of the officer involved are owned by the same interest that

So there is a common ownership test — if they are a common ownership of a controlling proportion of the shares of his bank. You go up and down. Your grandfather and you go down to the subsidiaries or affiliates within the given amount.

It looks fairly extensive to me, Mr. President, but if there is another way of putting a net to capture the DOSRI and the DOSRAS violators, then we shall do so.

Senator Tañada. Yes, Mr. President. The provision speaks of an outstanding loan or any form of financial accommodation. I note that the provision specifically pertains to an outstanding loan. Are we to understand, Mr. President, that the waiver will not apply in cases where the DOSRI loans have already been settled and paid?

Senator Roco. Meaning to say, there was a DOSRI or DOSRAS violation, but we found out too late.

Senator Tañada. Yes.

Senator Roco. In which case, Mr. President, on that hypothesis, we already know.

I have no strong feelings. We can apply it also. But if it happened in the past and we discovered it, then there is no need to oblige revelation. Because the assumption of the question is that we found out. Again, we can put a phrase, "without encouraging witch-hunting, past violation within the prescriptive period can still be prosecuted."

Senator Tañada. For example, Mr. President, bank officer "A" availed of a DOSRI loan in January and subsequently settled the same in June. However, the following month, the CB examiners, for some reason, belatedly found something anomalous in the transaction. Considering that bank officer "A" no longer has an outstanding DOSRI loan, could the CB examiners still invoke the waiver of secrecy on bank deposits?

Senator Roco. The assumption of the question may probably fall under the first two paragraphs. If the examiner is the one who

catches it, there are other administrative provisions that will apply to the officer violating. I think he can be suspended. He can be blacklisted. Because he was supposed to submit all these things to the Central Bank if he were nominated as a director of a bank. These similar administrative sanctions can run after past violations.

Senator Tañada. But could the bank officer claim that the waiver of secrecy on his bank deposits cannot be invoked by the CB examiner?

Senator Roco. The Committee is willing to accept an amendment, so that in the instance described, where past violations are discovered and they are violations of DOSRI or DOSRAS prohibition, then the same waiver can apply.

Senator Tañada. Thank you, Mr. President.

Section 26 deals with prohibitions on bank personnel. I understand that under Section 26, CMA personnel would be subject to certain restrictions and prohibitions regarding transactions with financial institutions under their supervision. Under paragraph (b), for instance, Bangko Sentral personnel are prohibited from directly or indirectly requesting or receiving any gift, present or pecuniary or material benefit from any banking institution which has pending official business with the personnel concerned.

Mr. President, considering that the prohibition specifically refers only to institutions with "pending official business," are we to understand that CMA personnel could legally receive gifts or benefits from banks, as long as the banks concerned have no pending transaction with the CMA?

Senator Roco. In my opinion, Mr. President, no. Because, again, the general provisions of statutory construction would apply, that although a law is worded in the present tense, we can extend this. It is really a continuum that could connote past incidents and that could continue into a future tense.

For purposes of record, if somebody wants to ascertain the intention of this, in my understanding, Mr. President, the normal rules of construction will apply, and this can therefore apply both to past or to future acts.

Senator Tañada. So if gifts are given by banks in anticipation of future Bangko Sentral transactions, that would be prohibited.

Senator Roco. In fact, I think under the Anti-Graft Law, they will already be prohibited, if not under the Ethical Standards Law.

Senator Tañada. And for that matter, as the Gentleman has already said, gifts given, say several months after a bank obtains favorable action on a Bangko Sentral transaction, would also be prohibited.

Senator Roco. That is correct, Mr. President.

Senator Tañada. With regard to borrowings by Bangko Sentral personnel, Mr. President, paragraph (c) provides that it shall be prohibited only with respect to the particular institution in which they are assigned or are conducting an examination. So, it would seem that, as long as an examiner is not directly assigned to the lending bank, he is eligible to borrow. Would that be a correct interpretation?

Senator Roco. Mr. President, what the law directly prohibits cannot be indirectly avoided. So, I would suggest that that would not be a correct interpretation. In fact, indirections or indirect attempts to escape from this prohibition will evidently not prosper.

Senator Tañada. So, could we possibly consider prohibiting entirely any borrowing by Bangko Sentral personnel, at least those assigned to bank supervision and examination, Mr. President? Or would such blanket prohibition be considered grossly unfair or extremely prejudicial to Bangko Sentral personnel?

Senator Roco. Is the Gentleman referring to Section 26...

Senator Tañada. Yes, Mr. President, paragraph (c), Section 26.

Senator Roco. I think, maybe, we are understanding it....

Senator Tañada. I am referring to borrowings by Bangko Sentral personnel.

Senator Roco. The Gentleman is on page 17, is this correct?

Senator Tañada. Yes.

Senator Roco. Hold on, please. I was looking at another portion. May we have a one-minute suspension? Because it is an administrative procedure, so I am trying to visualize, and I will have technical inputs, Mr. President.

SUSPENSION OF THE SESSION

The Presiding Officer [Senator Aquino]. The session is suspended for one minute.

It was 8:28 p.m.

RESUMPTION OF THE SESSION

At 8:29 p.m., the session was resumed.

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

Senator Roco. On page 17, may we invite the Gentleman, Mr. President, to take the total context from line 3 to line 24. I will not dwell from line 3 to line 19. But if we can read the last paragraph, it says...

Senator Tañada. Mr. President, I am using the May 21, 1993 draft. Would that be the latest draft?

Senator Roco. May 17 is the Committee Report...

Senator Tañada. I have May 21, 1993.

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension, Mr. President,

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

It was 8:30 p.m.

RESUMPTION OF THE SESSION

At 8:31 p.m., the session was resumed.

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

I hope we are all using the same draft, as of May 15, printed on top of page 1.

Senator Roco. Yes, as of May 15, 1993.

Senator Tañada. Yes, Mr. President.

Senator Roco. That is the one with the numbers on the side.

Let me explain again, Mr. President. There is one that is, as of May 15, the official copy as allowed by the Senate, where the report shows that everything double-spaced is new or has been modified. The single-spaced portions are lifted from the old law. Then, at the request of Senators Guingona and Romulo, that we indicate which portions are modifications, the Committee furnished all the Senators this one, that is May 21.

Is the distinguished Gentleman looking at the May 21 copy or May 15?

Senator Tañada. May 15.

The Presiding Officer [Senator Aquino]. May 15.

Senator Roco. Yes, draft as of May 15.

The Presiding Officer [Senator Aquino]. Yes.

Senator Roco. But on top, at the right corner, there is a May 21 engrossed copy "for staff's study of Senators."

The Presiding Officer [Senator Aquino]. There is something written, but it is not very clear.

Senator Roco. It is not very clear, yes. This one, on page 1, there are no numbers on the side because this is an engrossed copy. We made this for the staff's study so that we will know automatically what is new, what are the modifications. We can use this, Mr. President, without any problem for me. In which case, we are looking at page 19, engrossed copy. Are we on the same level of information now?

The Presiding Officer [Senator Aquino]. Senator Tañada.

Senator Roco. It is page 17 in the official report which has the numbers on the side.

Senator Tañada. Section 26, Mr. President, is on ...

The Presiding Officer [Senator Aquino]. On page 16 up to page 17.

Senator Tañada. ...page 15, Mr. President, of the May 15 copy. Section 26 starts on page 15.

The Presiding Officer [Senator Aquino]. Are we talking of "Prohibitions"?

Senator Tañada. Yes, Mr. President.

The Presiding Officer [Senator Aquino]. It starts on page 16 of our copy.

Senator Tañada. No, it starts on page 15 in my copy, Mr. President.

Senator Roco. May I have a look at it, Mr. President, because it does not even coincide with either draft.

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 8:35 p.m.

RESUMPTION OF THE SESSION

At 8:37 p.m., the session was resumed.

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

Senator Roco. We have traced the documents, Mr. President, because the Secretariat reprinted the bill. That is why, at the start of the sponsorship speech, I asked permission to use the report of the Committee as submitted. The black folders will contain the report of the Committee as submitted.

I think we are now on the same documents.

Senator Tañada. Yes, Mr. President. I am using now the copy that is in the black folder.

The Presiding Officer [Senator Aquino]. Fine. We are on page 16.

Senator Tañada. We are on page 16, Mr. President, and my question was on the possibility of the Sponsor considering prohibiting entirely borrowings by Bangko Sentral personnel. Or, if that is not acceptable, at least, those personnel assigned to the bank supervision and examination. I do not know if such a prohibition could be considered grossly unfair or extremely prejudicial to the Bangko Sentral personnel.

Senator Roco. Yes. That is why I was calling attention to page 17, line 20: "Borrowing by all full-time Bangko Sentral personnel from any institution subject to supervision or examination by the Bangko Sentral shall be fully secured, fully disclosed to the Monetary Board, and shall be subject to such further rules and regulations as the Monetary Board may prescribe."

This old law, in our view, Mr. President, may be satisfactory protection for the Central Bank because it becomes very difficult to borrow if one is an employee of the Central Bank. Especially when one is younger and he is only beginning to accumulate some capital, even for a car he has to borrow, even for a house he has to borrow. I would imagine that he has to go to a bank or to the financial institutions.

Because they are in the Central Bank, we require them to fully disclose and they must be fully secured. So, those protections may be sufficient, but we do not want also to make it difficult to the Bangko Sentral personnel.

Senator Tañada. I can appreciate the reasons given by the distinguished Sponsor, Mr. President. It is just that it seems to me

that the limited prohibition provided in the present formulation still leaves enough room for wheeling and dealing. It would not be difficult to imagine how back-scratching could take place among bank examiners.

For example, we have bank examiner A assigned to bank A and bank examiner B assigned to bank B. Since A could not borrow from bank A, he could easily ask examiner B to facilitate his loan with bank B. In return, examiner A could do the same with regard to the loan of examiner B with bank A.

Senator Roco. That is correct, Mr. President. In fact, in almost all the prohibitions, one — if he were to apply himself very diligently — will find some way of avoiding the law, if they want to avoid the law. But lawmaking, I guess, tries to cover the norm. The assumption of basic honesty, good faith on the part of personnel must be considered.

But having said that, Mr. President, we can make our laws as detailed as American laws. They can have subsections that go as far as 99. So, we could make that consideration.

We are open to suggestions, Mr. President. The way the Gentleman thought, however, that the stringent requirements of reporting and disclosure may be sufficient. Those who try to avoid that, no matter what we put here, will find another way of avoiding it.

Senator Tañada. Thank you, Mr. President. May I move on to Section 27.

Under this Section 27, Mr. President, banks subject to examination will be required to shoulder the costs incurred by the Bangko Sentral. It provides as follows: "The institutions which are subject to examination by the Bangko Sentral shall reimburse the Bangko Sentral for the cost of maintaining the corresponding supervising and examining department and, for this purpose, shall pay to the Central Bank an annual fee in an amount equal to a percentage as may be prescribed by the Monetary Board of its average total assets during the preceding year"

As presently formulated, Mr. President, the provision speaks of two things: One, reimbursement of cost; and two, an annual fee. For purposes of clarification, Mr. President, would the annual fee be considered the reimbursement of costs incurred by the Bangko Sentral, or would the banks have to pay an annual fee on top of the reimbursements?

The reason I ask this, Mr. President, is that, while I agree that it would be appropriate to impose annual fees on banks, I have serious reservations in the case of reimbursements for costs incurred by the Supervising and Examining Department allowing

such reimbursements, could become a source of corruption. I am afraid that generous reimbursements could only compromise the integrity of the Bangko Sentral examiners.

Senator Roco. We are open to suggestions that will make that phrase better, Mr. President.

Senator Tañada. So in the period of amendments, Mr. President, we will come up with our proposal.

If we can move on to Section 80, Mr. President.

Senator Roco. Yes.

Senator Tañada. Under Section 80, the Bangko Sentral is required to collect interest and other charges in all loans and advances it extends. And accordingly, the Monetary Board is given the authority to fix interest and rediscount rates.

I have come across a study conducted by the Philippine Institute of Development Studies which raised the possibility of how banks could make a profit from the CB rediscounting window.

According to this study, Mr. President, banks could make a profit by borrowing from the rediscount facility at a lower than market rate, and then invest the money in government securities which carry higher rates. Perhaps, the Committees' technical staff could look into this matter and possibly come up with something, Mr. President.

Senator Roco. Mr. President, that is probably possible. I think an arbitrage is always possible when we deal with multiple commercial documents or when we deal with stock exchange or when we deal with foreign exchange. So very bright and very well-informed finance people can and do make money on the differential and the exchanges. But if there is a way of capturing in words a mechanism to prevent that, then again the Committee will be willing to look at it.

My understanding, Mr. President, is very difficult to... It seems to be a normal arbitrage operations.

The instance pointed out though by the Gentleman should be very difficult because that means they are churning money from the rediscounting to the government to the treasury bills. In my mind, it should be caught either by the Central Bank or the National Treasurer.

Senator Tañada. I know this requires technical expertise, Mr. President. But perhaps, the technical staff could consider the possibility of stating in the law that the rediscount rate should be aligned with the market rates. I do not know. I am just submitting that for consideration of the technical staff.

Senator Roco. Yes. We appreciate the intention, and our concern is not also to hamstrung the Monetary Board. I think in the powers and the duties of the Monetary Board, aligning interest rates is one of the functions that they will have to look at. But we will ask the technical staff to find an appropriate language, if at all it is possible, Mr. President.

Senator Tañada. Thank you, Mr. President. We may move on to Section 87, Mr. President.

Senator Roco. Yes. This is useful, Mr. President. The Gentleman will notice Section 87 is totally old law. It is single space on page 45.

Senator Tañada. Yes.

Senator Roco. So, again, being from the old law does not mean we cannot modify it, but it is good to understand the legislative origin.

Senator Tañada. Mr. President, apart from losses incurred in forward cover and swap transactions, a sizeable portion of the losses suffered by the Central Bank was due to the issuance of high interest yielding Central Bank Certificates of Indebtedness, more popularly known as the Jobo Bills and later on the "Joey Bills." If I recall right, Mr. President, these bills were issued by the Central Bank in 1984 to mop out excess liquidity in the aftermath of the 1983 crisis.

May I know from the distinguished Sponsor whether or not the present bill still gives the Central Bank, the Bangko Sentral, the power to issue its own IOUs?

Senator Roco. As I understand it, Mr. President, this is one of the instruments for mopping up liquidity when the Monetary Board or the Central Bank finds itself a need to mop up liquidity. So, to my understanding, it is difficult to deprive them of that prerogative. But it seems good policy for the government to be issuing the treasury bills and letting themselves worry about borrowing from the public. Again, we then intrude into an area of defining and implementing monetary policy which, again, should be a delegated function to the Monetary Board. So, that is the situation, Mr. President.

Senator Tañada. Mr. President, in the public hearings conducted by the Committee, was the possibility of removing such authority ever discussed? Did the Committee ever take into consideration the possibility of not allowing the Central Bank to issue its own bonds?

Senator Roco. May I invite the Gentleman's attention to Section 85: "The open market purchases and sales of securities by

the Bangko Sentral shall be made exclusively in accordance with its primary objective of achieving price stability."

This is where we repeat the words "primary objective" of price stability. In other words, the value of the bill now is that having seen an abuse or overuse or misuse of the sale and purchase of securities, we now restrict them, but we cannot deprive them of the ability to engage in open market operation. But then, the judgment call and the standard that will guide the Monetary Board is the primary objective of achieving price stability. That is one protective mechanism, Mr. President. In prior sections, we did stress that we also removed the hiding places.

One of the reasons they were able to accumulate also, Mr. President, I think, is the hiding places of the suspense accounts which we have deleted in this bill. So, the totality of the protective mechanism may help minimize the danger of another Jobo Bill. Or maybe they will call it, if Bobby Tañada becomes governor, the Bobby Bills. But we are minimizing this possibility because of the total prohibition in the bill.

Senator Tañada. So, the primary reason why the Central Bank should be given such a power will be to be able to achieve its objective of ensuring price stability, Mr. President.

Senator Roco. Yes, Mr. President. Apparently, under certain conditions, there might be excess liquidity and there might be too much money in circulation. And so we have a danger since if there is too much money in circulation, too much currency, we lower the value of the currency.

In those instances, the Monetary Board, in its primary objective of ensuring price stability, will then sop up the excess liquidity.

The reverse could be true. The liquidity may be so tight that economic activity might grind to a halt. This was my personal bias when they were talking of controlling inflation. Even our resource persons acknowledged that. Theoretically, it is conceivable that there might be an instance where we want to release more money so that we push the inflation a little higher and it becomes more economical or viable for industry.

So those possibilities can occur, Mr. President, but there are more protective mechanisms in the bill.

Senator Tañada. Could not the Central Bank perform its open market operations using its own stock of government securities? I am informed and told, Mr. President, that in conventional central banking, monetary control is achieved by the Central Bank through the buying and selling of treasury bills.

Senator Roco. That can be, Mr. President. Again, let me draw very clearly just so I do not lose my basic thesis.

If the bill is acceptable to our Colleagues, Mr. President, the new Bangko Sentral will again be defining the assets and liabilities that they will carry and take away from the old Central Bank. Assets and liabilities will still remain with the old Central Bank so that they can be cleaned up or they can be traced to their original borrowers or whatever. But when that happens, we see the Monetary Board exercising judgment as to which of these assets will be carried to the Bangko Sentral.

Assuming they carry — and I would imagine those good assets will be carried into the Bangko Sentral — I am informed that there is not enough of the government securities for them to use in addressing their open market operations.

But we leave them again, Mr. President; we leave it to the Monetary Board, with their relatively higher salaries relative to the rest of the government operations, to figure out the good mix or the optimum mix of use of government securities as against the possible use of their Jobo or Bobby bills.

Senator Tañada. Mr. President, the policy choice of whether or not to allow the Central Bank to issue its own debt instruments is important not only in relation to the issue of avoiding future losses but more so in the matter of providing some sort of a check on the CMA's independence from fiscal authorities.

If the distinguished Sponsor will recall, I previously raised in my interpellation the possibility of limiting the CMA's statutory objective solely and primarily to the attainment of price stability but subject to the formulation of safeguards against an all powerful and inflation-obsessed CMA, and not allowing the CMA to issue IOUs could be one such safeguard.

Just recently, Mr. President, the papers reported an alleged policy disagreement between Secretary del Rosario and Governor Cuisia. According to the reports, Secretary del Rosario wanted the temporary closure of the so-called tap facility for treasury bills to reduce government borrowings.

On the other hand, Governor Cuisia reportedly opposed the move on the ground that excess liquidity would lead to higher inflation. Apparently, to counter the move of the National Government, the Central Bank reportedly — I stand to be corrected, Mr. President — plans to issue long-term Central Bank bills to mop up liquidity.

Mr. President, to my mind, this incident best illustrates the pitfalls of an independent CMA with the power to issue its own IOUs. However, at the same time, I recognize the need to give the new CMA the flexibility to exercise effective monetary control

Denying the CMA the power to issue its IOUs could tie its hands in dealing with a financial crisis.

So, as a possible compromise formula, would the distinguished Sponsor be receptive to an amendment which would limit or otherwise restrict the CMA's authority to issue its own debt instruments? Specifically, let us say they can do this only during times of financial crisis or to control extraordinary inflation, or for that matter, in response to excessive growth in money supply.

Senator Roco. Again, Mr. President, I will repeat the basic thesis of the report, that to the extent possible, we must delegate these very fine, very technical judgments to the Monetary Board since again the Constitution tells us that they are the ones who should properly make the judgment.

But having said that, let me again try to answer as directly as possible the question.

There is a policy disadvantage, Mr. President, in tying the flexibility of the Monetary Board. In my knowledge there is some advantage when we can use paper instead of money some times. And Finance people can really invent all sorts of paper to replace money, whether you call it promissory notes, bonds, FRNs or what have you, they really amount to substituting. Instead of use of money, use paper so long as there is some trust and reliability on that paper. Now, that flexibility we may not want to deprive. Or at least, I do not feel technically competent to define the restrictions. I am willing to sit down with the Gentleman, with the caveat of assistance from technical people, but it is very difficult to define the technical balance of such a policy.

Let me just demonstrate it, Mr. President.

May I have a one-minute suspension?

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 9:03 p.m.

RESUMPTION OF THE SESSION

At 9:04 p.m., the session was resumed.

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

Senator Roco. I have been, for instance, doing readings on the evolving role of Central Bank. And when they start talking of

this myriad factors, they have to translate it in logarithmic or algebraic or whatever formulas they call it and they come out with $RL = EA - K - RN$ square, and then when you start analyzing the losses, the formulas are so long. Eighty percent of it I really cannot understand. But the total effect is that from out of all these formulas, what the Gentleman is mentioning, three factors appear probably in three small letters here. That is why, Mr. President, it overwhelms me to try to define verbally all these formulas in trying to achieve balance, competent operation of the monetary authority. In fact, it is that reading that convinced me that we have to delegate, because we may come up reinventing central banking that will not be of any use even to the *sari-sari* store in Sta. Cruz, Naga City.

That is really my biggest concern, Mr. President.

Senator Tañada. Thank you, Mr. President. I have a few more questions, but I would like to reserve my right to ask them tomorrow, since I would want to be given more time to frame them as they relate particularly to the matter of Central Bank losses and liabilities, Mr. President.

Thank you very much, Mr. President.

Senator Roco. Thank you also, Mr. President. We will be very pleased to try to answer the questions tomorrow.

The Presiding Officer [Senator Aquino]. Thank you, Senator Tañada. The next interpellator is Senator Romulo, if Senator Roco is still prepared to continue. He might want to have a short break.

Senator Roco. Yes.

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 9:06 p.m.

RESUMPTION OF THE SESSION

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

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

Senator Romulo. Mr. President, will the distinguished Sponsor and the Chairman of the Committee on Banks, Financial Institutions and Currencies yield for a few questions?

Senator Roco. We will be very happy, Mr. President, and we look forward to the help from the former chairman of the Committee on Banks, Financial Institutions and Currencies.

Senator Romulo. Thank you, Mr. President. Before I pose the question, I would like to congratulate our distinguished Colleague for this masterful Central Bank Act which, under his chairmanship, the Committee on Banks, Financial Institutions and Currencies has been able to report.

There is no doubt in my mind, Mr. President, that he is already a brilliant lawyer, but perhaps after the passage of the Central Bank Act, the way he has handled the questions on money supply and interest rates, he might yet be acclaimed as an economist on the level of Secretary Solita Monsod.

Senator Roco. Thank you, Mr. President.

Senator Romulo. Mr. President, I shall practice what I preach, and I will try not to repeat the other questions that were asked during the previous interpellations.

Mr. President, if the Gentleman will allow me, let me just put a few premise and then I would pose the question later on to save time.

Senator Roco. Yes, Mr. President.

Senator Romulo. First of all, Mr. President, may I put again on record my position. I have stated in my previous privilege speeches, that we should not allow any more taxes to be raised or any more additional borrowings to be incurred in order to pay for the liabilities that have been incurred and are currently part of the various suspense accounts. But I am encouraged in the light and in spite of the proposals emanating from other quarters, either the National Government or the new Central Bank or Bangko Sentral to assume liabilities in the amount of P300-billion plus, our distinguished Chairman has said categorically, in fact, he has vowed not to have the CMA approved if it includes the assumption of liabilities. And we support him 100 percent in his vow that he will not allow the new Central Bank to be approved if it includes the assumption of liabilities.

Moreover, Mr. President, we are also encouraged by the statement of the distinguished Chairman and Sponsor that he is predisposed to leave the issue of the Old Central Bank liabilities and the Central Bank rehabilitation to the Monetary Board that would be appointed under the Bangko Sentral. Again, we will support him to the full in this position and statements that he has.

Let me just state, Mr. President, that on the latest Statement of Condition of the Central Bank as of December 31, 1992, although even this has not been audited, the asset of the Central Bank is roughly P269 billion, that is, after we have removed the suspense accounts. And so with the liability of P584 billion or so, there is a net liability of the old or the present Central Bank of roughly about P314 billion.

Mr. President, why did we take out the three suspense accounts from the computation of the asset? These are the Monetary Adjustment Account (MAA), the Exchange Stabilization Adjustment Account (ESAA) and the Revaluation of International Reserve (RIR).

Why did we take it out, Mr. President? And why is it that we are objecting to the transfer of the Revaluation of International Reserve Account to the new Central Bank?

I mentioned that only because I think everybody is agreed that the MAA and ESAA are suspense accounts that should be written off.

Why are we objecting, Mr. President, to these three suspense accounts that these be considered as assets at all, including the Revaluation of International Reserve? For the simple reason that the COA itself, in its report, has stated very categorically that the MAA, the ESAA and the Revaluation of International Reserve are without any realizable or economic value and, therefore, cannot form at all the assets. That is the COA report, Mr. President, which has been repeated every year.

So if our position is not clear, I mean, if we cannot persuade some of our Colleagues who still want to insist that at least the Revaluation of International Reserve should be included as asset in the new Central Bank, then they should refer to the COA report.

In fact, the COA report says, at that time, that it was P280 billion plus or 63 percent. It says that it does not have any realizable and economic value. We are just waiting for the COA report as of December 31, 1992. And I have no doubt that that would also be the report of the COA on these three suspense accounts amounting to P316 billion.

The third point, Mr. President, because sometimes losses and liabilities are interchangeably cited and mentioned during the debate, losses are in the Profit and Loss Statement. Every year, in any organization or enterprise, including the Central Bank, we have the income and expense. At the end of the calendar period, we have either the net profit or the net loss. In this case, in the Central Bank it is always net loss. That is a loss.

What happens to that loss which occurs through the operation every year? That net loss then is a deduction from the capital or

surplus account in the Balance Sheet. So that the loss is taken up in the surplus or, if there are no more surplus, in the capital account. Mr. President, in the case of the Central Bank that was not followed. Instead, the suspense account or the loss was capitalized.

When we are talking of the Balance Sheet or Statement of Condition, we do not speak anymore of loss as such. We speak of the assets and liabilities, because the loss has already been taken up either in the surplus or in the capital account. So, when we analyze the Statement of Condition or the Balance Sheet of any enterprise and the Central Bank, we are talking now of the assets and liabilities. That is why I mentioned liabilities and the assets, minus the suspense account.

Mr. President, the total liabilities of P583 billion as of December 31, 1992 consist of four types of liabilities. I had this verified by the Central Bank. What are these?

First, those that are owed to the general public. Generally, these are currencies in circulation, notes and coins. That is about P74.3 billion.

Second, the liabilities to the National Government, and these amount to P260.8 billion.

Third, those owed to local banks and financial institutions in the amount of P128.9 billion.

Fourth, those owed to foreign banks and financial institutions, amounting to P112.9 billion.

The Central Bank has another category of "others," but this is small compared to the others. It is a total of P6.8 billion. So that the liabilities to the general public, circulation in notes and currencies, I do not think we have to pay that because there are the coins and the bank notes that we have in our pockets. That is in circulation all over the Philippines. I do not think we have to pay that. I mean, as long as the Philippine Government is in existence, we do not have to pay that.

What are the other liabilities? National Government, P260.8 billion. I think somebody suggested that if the National Government liabilities are converted to equity, then we do not have to pay that either. However, there are indebtedness that are owed to local banks, either deposits of local banks to the Central Bank or the reserve requirement. Therefore, the Central Bank owes the amount of P128 billion to the local banks and financial institutions. And the last are what the Central Bank owes the foreign banks in the amount of P112 billion, for a total of P583 billion.

Mr. President, I would like to say that the bulk or almost all of these liabilities or losses which became liabilities are mostly composed of two items: interest expense and foreign exchange differential. Let me also say that there are private debts assumed by the Central Bank.

I mentioned this, Mr. President, because it is not enough that we do not absorb the liabilities by the National Government or the new Central Bank. But efforts must be made to recover these losses and liabilities that had sunk the Central Bank to the far low state in which it is now in. And recovery means that, possibly, in my own opinion, there are culpable persons who should answer for this.

So, with that, Mr. President, as I said, we have no problem about assuming the liabilities, because the distinguished Chairman has himself made that categorical statement that he will not allow the approval of this if the new Central Bank will assume the liabilities. In other words, it is quite clear, in the Chairman's categorical statement, that we will have a clean and unencumbered balance sheet for the new Central Bank.

But I just want to clarify — and this is where I pose my questions — on the implication of Section 127. Section 127 refers to the transfer of assets and liabilities. I would just like to be enlightened, particularly in the light of the categorical statement of the distinguished Sponsor and Chairman, whether or not... I have no immediate problem with (a) "The Bangko Sentral Monetary Board shall have primary responsibility for working out creative monetary and financial solutions to retire the Central Bank liabilities and losses at the least cost to the government."

I suppose this is the old Central Bank. I have no immediate problem with that because, precisely, we are leaving the CB rehabilitation and the disposition of the liabilities to the new Central Bank Monetary Board.

In (b), however, it says: "The assets and liabilities to be transferred shall be limited in an amount that will enable the Bangko Sentral to perform its responsibilities adequately and operate on a viable basis."

If this is equivalent to a viable Central Bank, meaning, that it is a clean balance sheet and unencumbered Central Bank, again, I would have no problem with this. In fact, Mr. President, the Central Bank itself, under its version number one, speaks of the transfer of liabilities amounting to P222 billion and transfer of liabilities of P212 billion, which leaves P10 billion as capital, which is the capitalization. If this is what this means, I have no problem with it. Probably, with the indulgence and permission of the distinguished Sponsor and Chairman, we may later on propose during the period of amendments a provision that would really

clarify this. I take it that this is the intention of the distinguished Sponsor and Chairman. At this point, may I get a response from the distinguished Sponsor.

Senator Roco. First, Mr. President, we were honored by the kind words of the Gentleman. And as regards the premises, he did state that he feels strongly against more taxes or borrowings. In my view, this is really subject to the superior judgment of the Senate. The Chairman feels strongly about the transfer of liabilities. But, again, it is subject to support, advice and consent of the Chamber. And I would not want to presume that the Senate will automatically support all these. But, we are doing every earnest effort to persuade our Colleagues to support them. We are very happy that the Majority Leader supports most of the areas, as recommended.

As regards the liabilities leaving it to the Monetary Board, Mr. President — and this is the critical thesis of the report, that we must delegate again the functions of monetary policy to the Monetary Board — it is a requirement of the Constitution. Incidentally, it also avoids the need for tackling very specific multifaceted discussions on how to conduct monetary policy while we are in the Senate or acting as a legislative body.

The Majority Leader's discussion on the removal of the suspense accounts will help those who will try to ascertain our true intention, and the Gentleman has captured our intentions.

Let me now respond to the question of whether "viable" means "unencumbered and independent." There are two ways, Mr. President, of looking at the restructuring. One is to give all the money to the Central Bank or the Bangko Sentral — which is how the Gentleman would prefer to call it, the new CMA — and therefore, not only give them viability, but to enhance, to really give them such a good Balance Sheet that anybody who comes in there as Monetary Board will have to try very hard to fail. I mean, they have no choice but to succeed. If we give any person P300 billion and if he still fails, it is worse than a criminal. So, enhancing the Monetary Board, which is the essence of the proposal to "Please, get the National Government to pay all our losses," that kind of enhancement, Mr. President, in the view of the Committee, is good for the Central Bank governor.

But, maybe, that is not what we are getting paid for here in the Senate, that we must absorb liabilities to enhance an institution, and therefore, somebody can retire in a blaze of glory. That is not, I think, Mr. President, the intention of it all. In fact, the bill itself submitted and drafted by the Central Bank does not ask for transfer of liabilities; neither does the bill of Senator Romulo; neither does the bill of Senator Guingona; neither does the bill of Senator Osmeña.

And that is why, Mr. President, the Committee felt confident that we would be upheld because none of the bills are existent

now. Viability, however, here will be strengthened because of the suggestion that we will increase the capital contribution. All the bills ask for P10 billion.

Senator Guingona has suggested a way of offsetting which could end up with the new Bangko Sentral having a paid-in capital of P40 billion. All I ask, Mr. President — and I have asked the technical staff to secure it from the government — is a certification from the National Treasurer that the deposits not earning interest, which I am informed amounts to P42 billion, can be given in fact by the National Government to this new Bangko Sentral.

On a personal basis, Mr. President, I find it more acceptable for the National Government to invest P40 billion than to pay for their losses. We assume some kind of diligent and responsible Monetary Board to maximize and leverage whatever capital we give to them. So those are my responses.

In brief, Mr. President, the viability is a standard by which the Monetary Board may select the assets and liabilities.

One of the problems, Mr. President, if we were to go into the various proposals — and the Gentleman from Manila mentioned the proposal from Neri; there is the Monsod proposal; there is the Lamberte proposal; then there are the nine proposals from the Central Bank. If we read the columnists, they also have their own proposals. Everybody and his Uncle Harry has proposals and proposals and proposals.

But when we consider all of them, we become convinced that the Monetary Board, precisely, must exercise prudent, primary competence and judgment on which of these proposals can best be combined to secure highest benefits to the Republic and optimum benefits to the public sector.

The argument on the public sector deficit, Mr. President, can also be answered by pushing to have public sector surpluses or increased earnings from other public sector activities. These are the balances that I feel will help eventually the new members of the Monetary Board when they exercise judgment on monetary policy. Those are my reactions. I hope I covered the points raised by the Gentleman.

Senator Romulo. I am satisfied, Mr. President. I think the distinguished Sponsor has covered the points to my satisfaction. I just want to stress that, first, as I said, based on statements and again on the clarification that he made here, the new Central Bank will have a clean Balance Sheet, which means that it has more assets than liabilities. Second, of course, it goes without saying that it will not assume the liabilities more than the assets that it will get. Third, in this bill, there would be no proposal for the National Government to assume any of the Central Bank liabilities.

However, let me just state that there is one liability or one category of liability that the new Central Bank has to assume whether it likes it or not. That is, currency in circulation, notes and coins, because that is a function of the Central Bank. All the money in circulation on December 31, 1992, which is about P74 billion, by necessity has to be assumed by the new Central Bank if it is to perform Central Bank function. In assuming that, we presume that there would be a corresponding asset transfer of at least more than P10 billion to the P74 billion currency in circulation. That is just the point that we wanted to bring up.

Of course, if we want to transfer to the new Central Bank — perhaps, this is the Guingona proposal — the entire international reserves which amount to P130 billion, then that is probably what Senator Guingona meant in having an excess of assets of about P40 billion. Now, I am just asking for at least a P10 billion capitalization; therefore, assets over liabilities, assets in excess of P10 billion. That is all, Mr. President.

Senator Roco. If the Gentleman will allow. There is the reason, Mr. President, why under Section 127 (c), the recommended bill says: "Liabilities to be assumed by the Bangko Sentral shall include liability for notes and coins in circulation as of the effective date of this Act."

Effectively, Mr. President, what the good Gentleman was describing in the graphic terms of Dick Limlingan is to match the "ampaw" assets with "ampaw" liabilities and leave that with the old Central Bank. To match the good assets with the good liabilities, plus the capital given to the Bangko Sentral, they should be off and running with sufficient steam and energy to make profit.

Whatever that profit may be — because that is what is bothering the Gentleman from Manila — whether it is only P1 billion, it does not matter. Based on their projection, they could go from P1 billion to P26 billion over a 10-year span.

The point is, if they start with P1 billion, P75 million goes to the old Central Bank and P25 million goes to the operation and the future projections of the Bangko Sentral. Whatever shortfall — and this is where we depart from our Colleagues in the House version — they must come to Congress and justify that that is the best they could do. We must appropriate the shortfall because they come from public revenue and public funds. I guess Congress must not abdicate its duty.

Senator Romulo. Mr. President, we are in conformity with what the distinguished Sponsor said. And as we repeated in the caucus, under my proposition, the old Central Bank is bankrupt. Therefore, under Chapter XI of the bankruptcy proceedings — if we are talking of the United States — then we have no more

obligation on the excess liabilities over the assets. But, as I said, there may be sovereign debts that the government feels must be paid.

My position, Mr. President, is that they must come to Congress. I think that falls squarely with the position of the Chairman and Sponsor. They must come to Congress. If Congress feels that the sovereign debt has to be paid, then that is the prerogative of Congress. But we should not, in this bill, so provide because that is another story, Mr. President.

So, Mr. President, I would like to ask for some enlightenment, as provided in Item (d) of Section 127, which says: "That in consideration of the transfer of selected assets to the Bangko Sentral, the Bangko Sentral shall financially assist the Central Bank in the liquidation of its liabilities." And if we may continue, "The Bangko Sentral shall remit seventy-five percent (75%) of its net profits to the old Central Bank until such time when the latter's net liabilities are fully liquidated."

Mr. President, my own view, and I would like to express this to the distinguished Sponsor and Chairman is that, we should not at the very beginning already impose obligations on the new Central Bank. If, for instance, we cannot predict what the new Monetary Board will do — because the members of the Monetary Board feel that they are willing to give out of their profits some amount — well, they will answer to us for their accountability.

But, Mr. President, perhaps, if we can persuade the distinguished Chairman that this provision should not be in this new Central Bank Act, I would just like to get a reaction from the Chairman.

Senator Roco. Yes. Two points, Mr. President, because the Gentleman from Cebu has already buzzed us.

First, the terminology in consideration for the transfer of selected assets was used with the consciousness of the Civil Code.

When we create the new Bangko Sentral and we give them the prerogative of selecting the good assets and the good liabilities to be transferred to their balance sheet, we must get something in return, and that is not as though it were a donation or a transfer of assets and liabilities with no corresponding obligations. So, it was more in an effort to recognize the bilateral obligation. In the Civil Code, "consciousness." So, we put in "in consideration of their getting the good assets and the good liabilities." Whatever they may be, they have a duty. So, we just establish bilateral obligations on the Bangko Sentral.

As regards the 75 percent of the profit being given to help retire liabilities of the old, it is a slight modification from the

present Central Bank law. The present Central Bank requires a division, I think, of 50-50 or 50-25-42. There is a certain combination distributed.

In the bill, we submit that after we clean up the old Bangko Sentral, then it becomes 50-50; 50 goes to the National Government and 50 goes to the Bangko Sentral, and they will be entitled to it.

But while we are still retiring, they must keep only 25 percent. So their overall projections should consider the 25-percent profit keeping which should not make them feel too bad, considering that we will give them P10 billion. And if Senator Guingona's sentiments persuade our Colleagues, we will give them P40 billion. So that is a significant boost to them, in my view.

My friends, who have been helping me keep telling me that it should be larger than P40 billion, but so far, the largest proposal has been P40 billion and I am stuck with P10 billion because all the bills have suggested P10 billion. But the Committee will be willing, I am sure, to discuss and be guided by our Colleagues on maximum mix between capital and assets transfer to the Bangko Sentral.

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 10:01 p.m.

RESUMPTION OF THE SESSION

At 10:01 p.m., the session was resumed.

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

Senator Romulo. Mr. President, Senator Aquino has said that leadership must pay a price, and I promise that I shall practice what I preach. I have more questions, but just give me another 10 minutes or so and I will sum it up.

Mr. President, after that, then it is on the record, and it is up to the distinguished Sponsor to consider it, especially in the period of amendments.

Senator Maceda. Mr. President.

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

QUESTION OF PRIVILEGE OF SENATOR MACEDA (Coping with Fast-Paced Proceedings)

Senator Maceda. Just a question of personal privilege.

I find the discussion as I had anticipated before when I said that I would like to raise questions after Senator Romulo, because these are the two Gentlemen that really understand this bill, and I have been trying to take notes, and it is difficult to follow, not to mention that it is difficult to keep my eyes open because we have been working since nine o'clock.

I just wanted to refer to the statement of the Majority Leader that he has a lot more questions, but he wants to shoot them all and leave it for the Sponsor to answer in one sweep.

First of all, I do not really see why we should limit the Majority Leader, who has been asking the most intelligent questions to date on this issue, to 10 minutes or for him to rush all these questions. He asks good questions; he talks for about 20 minutes before the Gentleman answered, and it is really very hard for us, nonbankers, noneconomists, nonfiscal people to follow.

I would rather prefer that the Majority Leader take his time, ask clear individual limited questions, and then the usual way, like Senator Tafiada did, the Sponsor to answer so we can follow. Mr. President, this is the point I was raising the other day. We, who are here, have a hard time following. I really do not know how those who are not here can follow. And it is really unfair to the Sponsor, to the Interpellator and for me who is trying to follow very hard to feel that while we are about eight here, 16 other people are not following tonight the wonderful questions and answers of Senator Romulo and Senator Roco.

So I think that the Gentleman from Cebu is correct, but in this more substantial context. I think the Majority Leader owes it to himself, to us and to the people to ask his questions slowly, properly, and give him all the time. We are talking about P583 billion. We are talking about P74 billion in circulation. I have a privilege speech on the continuing leakage of the old recycled currency that is still going on. So I do not know how we will decide the P74 billion, whether this figure is accurate or not. Then we have P260.8 billion. Then we have P128 billion owing to local banks, P112 billion owing to foreign banks. And we have come to a point where we say, Others, P6.8 billion *lamang, maliit lamang iyan.*

I really feel that we are not going to do justice to this measure if we insist on rushing it to a point where even Senator Romulo

feels that he must take 10 minutes and lump all his questions together and then let the Sponsor answer it tomorrow at his leisure. But the Sponsor can answer it at his leisure. But how about us who are listening? We cannot really follow it. I am not trying to delay or to stall. The Gentleman have seen I have terminated my interpellations to the cigarette bill, but for me to understand this measure, I have to request Senator Romulo and the Chamber to examine it more.

The Presiding Officer [Senator Aquino]. Is the Gentleman suggesting, therefore, that Senator Romulo continue tomorrow in a more organized fashion?

Senator Maceda. No, if he wants to continue even tonight. *Kahit na inaantok na ako*, I will go along but do it slowly, deliberately and do not rush it.

Senator Romulo. May I ask for a one-minute suspension of the session?

The Presiding Officer [Senator Aquino]. May we hear Senator Osmeña first. He has been itching to talk. Senator Osmeña is recognized.

Senator Osmeña. Simply to bind the leadership to its commitment to adjourn at ten o'clock.

The Presiding Officer [Senator Aquino]. Thank you, Senator Osmeña.

Senator Biazon. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Biazon is recognized.

Senator Biazon. I join Senator Maceda in the sentiments that he just expressed by suggesting that the words used by the distinguished Sponsor, which he said that he leaves these certain things to the superior judgment of the Chamber. May I suggest that instead of "superior," we substitute "WISE AND INFORMED JUDGMENT OF THE CHAMBER" and that, indeed, is not possible when this dialogue between the distinguished Sponsor and the Interpellator is not heard by a majority in this Chamber.

Mr. President, I think that this thing should be done slowly so that there will be not superior assessment or judgment of the Chamber, but we will come up with a wise and informed judgment of all the Members of this Chamber.

Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. The Majority Leader, I think, have heard some of the Members and Senator Roco can hardly stand up.

Senator Roco. Ten o'clock, Mr. President, is fine so long as we do try to begin on time only because it is the last day. If we will be adjourning *sine die* until Saturday, then ten o'clock is fine. But I do appreciate the comments, and it makes the Committee feel good if people are trying to understand what we have grappled with over the past six months.

Senator Romulo. Mr. President.

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

Senator Romulo. We have consulted the Senate President, the Chairman and the other Members and we shall continue the session tomorrow at ten o'clock in the morning.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1235

So, may I now move that we suspend consideration of Senate Bill No. 1235, the Central Bank Act, until tomorrow, Mr. President.

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

Senator Romulo. Mr. President, upon agreement with the House, we will propose that we extend our session up to Saturday, June 5, 1993, and therefore, the adjournment period will start on June 6, 1993.

SUSPENSION OF THE SESSION

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 10:10 p.m.

RESUMPTION OF THE SESSION

At 10:11 p.m., the session was resumed.

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

Senator Romulo. Mr. President, under our present Calendar, our session ends on June 3, 1993 and the adjournment of the session starts on June 4, 1993. I will move that we extend our session up to June 5, 1993 so that we adjourn on June 5, 1993, and that is already an adjournment until July 25, 1993.

June 3, 1993

Senator Osmeña. The costing of their production.

Senator Herrera. Yes. But there is that, as I said, provision, for purposes of tax determination which is the wholesale price registered as of December 31, 1992.

Senator Osmeña. As of December....

Senator Herrera. December 31, 1992.

Senator Osmeña. Mr. President, I think the Majority Leader is calling for a time out.

SUSPENSION OF THE SESSION

Senator Romulo. With the permission of the Chairman and Senator Osmeña, 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 11:11 a.m.

RESUMPTION OF THE SESSION

At 11:13 a.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 8308

Senator Romulo. Mr. President, I move that we suspend until two o'clock this afternoon the consideration of House Bill No. 8308. We are in the period of individual amendments when we resume and Senator Osmeña is on the Floor for his individual amendments, Mr. President.

So, I move that we suspend consideration of House Bill No. 8308.

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

BILL ON SECOND READING

Senate Bill No. 1235 — The New Central Bank Act (Continuation)

Senator Romulo. Mr. President, I move that we now resume consideration of Senate Bill No. 1235, the new Central Bank Act.

I ask that the distinguished Sponsor and Chairman of the Committee on Banks, Senator Roco, be recognized and yours truly is still interpellating.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized, and Senator Romulo is interpellating.

Senator Roco. Thank you, Mr. President. We shall be glad to try to answer the questions of the Majority Leader.

Senator Romulo. Mr. President, would the distinguished Sponsor and Chairman yield for some more questions?

Senator Roco. Yes, Mr. President.

Senator Romulo. Mr. President, if I recall our interpellation last night, we were inquiring about the provision on Item (d) of Section 127 wherein it is provided that the Bangko Sentral shall financially assist the Central Bank in the liquidation of its liabilities and where it is also provided that the Bangko Sentral shall remit 75 percent of its net profits to the old Central Bank until such time as the latter's net liabilities are fully liquidated.

Of course, we received already the answer of the distinguished Sponsor and Chairman. But may we just reiterate our plea that while the new Monetary Board may well provide that certain profits of the new Bangko Sentral will so be used to liquidate part of the liabilities of the old Central Bank, we would propose that this should not be included in this New Central Bank Act. So, we just want to reiterate that plea, Mr. President, to which the distinguished Sponsor already had made his reply last night.

Senator Roco. Yes. Mr. President, we will discuss this further with the Majority Leader and see how we can find a wording that will allow the new Bangko Sentral a mode of servicing the liabilities of the old.

I understand from the distinguished Gentleman that he does not object to the principle of the new Bangko Sentral paying for the old Central Bank. So, it becomes a question of a mechanism, I guess.

Senator Romulo. Mr. President, let me clarify my position. I said, "Let us leave it to the new Monetary Board." It is up to the new Monetary Board.

Senator Roco. Yes.

Senator Romulo. My own position is that I hope that the new Monetary Board will consider the old Central Bank as bankrupt and therefore there is no more liabilities to be paid; that if there are any debts or liabilities that the old Central Bank wishes to pay or settle, then the recourse that I would suggest is to let Congress decide. That is my position, Mr. President.

Senator Roco. We will leave the judgment then to the new Monetary Board, Mr. President, but with this introduction of this appeal into the records, I guess, the new Monetary Board will be guided accordingly.

Senator Romulo. Thank you, Mr. President. It is clear in this bill that the MAA — Monetary Adjustment Account — is abolished. And the amounts pertaining to the adjustment account in the existing or old Central Bank — I will use the term old Central Bank and the new Bangko Sentral — the amounts in the suspense account on the Monetary Adjustment Account will, however, remain in the old Central Bank. I think that is clear in my mind.

The same with the Exchange Stabilization Adjustment Account that is abolished. So, it is no longer considered in the new Bangko Sentral but, of course, the amount will remain in the old Central Bank.

Senator Roco. That is correct, Mr. President.

Senator Romulo. However, I would like to be enlightened as to the Revaluation of International Reserve. Now, as I understand it, there will be a provision for that account in the new Bangko Sentral. Is that correct?

Senator Roco. Yes. May we invite the attention of the good Gentleman, Mr. President, to Section 44 and Section 45 in the bill as reported out. It is page 29. Under Section 45, if the Gentleman already has the page, the Suspense Accounts, it specifically states as mentioned that Sections 43 and 43-A which are MAA and ESAA of R.A. No. 265 are hereby repealed. Amounts outstanding as of the effective date of this Act based on these accounts shall continue to be for the account of the old Central Bank and shall be governed by the transitory provisions of this Act.

The Revaluation of International Reserve Account as of the effective date of this Act of the old Central Bank, the RIR of the old Central Bank, shall continue to be for the account of the same entity and shall be governed by the provisions of Section 44 of R.A. No. 265, as amended, until otherwise provided for in accordance with the transitory provisions of this Act.

So, RIR again is maintained with the old Central Bank and will be treated in accordance with Section 44 of the present law.

I did not want any possibility that we might start paying the RIR by omission or by neglect. So, it is very clear it will be treated in accordance with Section 44 of the present law which says that they will clean it up as profits come along which may be 1,000 years from now.

What happens now with the Bangko Sentral for the revaluation account? Section 44 will then cover that. It says "Profits or losses arising from any revaluation of the Bangko Sentral's net assets or liabilities in gold or foreign currencies with respect to the Philippine peso shall not be included in the computation of the annual profits and losses of the Bangko Sentral."

So, how RIR, or the equivalent of an RIR, will be treated is specifically covered by Section 44 now of the bill. In other words, they will begin anew with a zero and as they go along with foreign exchange transactions, our revaluation accounts will accumulate. Sometimes they will lose, sometimes they will win.

Senator Romulo. It is in this sense, Mr. President, that I would like to ask the distinguished Sponsor and Chairman if he would agree instead of this provision to just charge whatever is plus or minus in the RIR to the operation for that year so that by charging it to the operation for that year, we do not need this account.

Senator Roco. Mr. President, I can see that workable, subject to consultation with the technical staff. But if I may share the information with the Gentleman, in my readings, it seems that this Revaluation of International Reserve account, the account for that monitor effectively the change of value between the local currency, peso as against dollar or RIR as against mark, et cetera, is a handy instrument for the Central Bank functions. So, while I have no firm bias against the suggestion of the Gentleman, I will accept the idea for now, subject to advice from the technical people because we do not want also the Bangko Sentral not to have an instrument that is otherwise available to all other Bangko Sentrals.

Senator Romulo. Thank you, Mr. President. We are satisfied with the answer and, of course, during the period of amendments, by that time, I suppose, there would be some consensus on this view. Just to clarify that point, if there is a minus in the RIR, then that means that is a reduction of either the surplus or the capital account of the new Central Bank. If there is a plus in the RIR carried during the operations for the year, then that means that is an increase in the surplus account in the balance sheet or the capital account. But I am satisfied with the response of the distinguished Sponsor and so, I suppose we will take this up again during the period of amendments.

Let me go now to the next....

Senator Roco. May we just request the Gentleman, Mr. President, to kindly dwell and reflect later on, not now but before the period of amendments on Section 44.

Senator Romulo. Yes, Mr. President.

Senator Roco. So that maybe we can work out the suggestion within the context of Section 44.

Senator Romulo. Yes, Mr. President. Let me just say also that at least those who are in favor of retaining such an account as a suspense account or as a deferred item, nevertheless, would say that let us not carry this indefinitely, perhaps a two or a three-year period. So perhaps that is the other, let us say, more conservative approach.

At any rate, Mr. President, I am satisfied that we shall take this up during the period of amendments. So let me now go to the other part of this bill.

Mr. President, what is the protection that we give to the officials and personnel of the Central Bank who are engaged in a very important function of the Central Bank, that is, the regulatory function?

As we would recall, there had been many suits filed against officials of the Central Bank for performing valid regulatory functions. I believe there is something here, but can the Gentleman just clarify that point so that our Colleagues would be made aware of it?

Senator Roco. Yes, Mr. President. Just to give a total context, the first protection really is the clarity in the expression of powers, because then there is less possibility of misinterpretation in the exercise of the powers. And they are in the section on Powers, Functions and Responsibilities of the Monetary Board and the Bangko Sentral.

The second protection is in the supervision and regulatory exercise over failing banks, because this is where the area for possible abuse arises. The four steps ...

Senator Romulo. Can the Gentleman repeat the second protection?

Senator Roco. Yes, Mr. President. The second protection arises from the effort to enumerate the four steps by which the Bangko Sentral and the Monetary Board, as the collegial body deciding, will address failing banks.

The first step being emergency advances. The second step being conservatorship, and the conservatorship here, I think, is better and more precisely defined than the conservatorship under the old law. The third step being receiver, as understood under the Rules of Court. And the fourth step is liquidatorship, which can

be initiated almost *ex parte* but will require hearings and due notice and all the elements of due process to effect liquidation.

If we may say so, Mr. President, it is a finely crafted combination of the Rules of Court. It recognizes the Civil Code preference of credits. It also recognizes to the extent that we could unearth from the researches the experiences on conservatorship that has happened since 1983.

So these are the things that went into the four provisions.

The final — and I think this is what the Gentleman was trying to elicit from me. In the event, despite the clarity of powers and despite the clarity of the steps to be taken to save failing banks, one, in the exercise of his examination functions, is still sued or the Governor as he retires is sued, as in fact we have seen Governors being sued, then under page 8, Section 14(e), the Committee has recommended an indemnification clause.

The indemnification clause, Mr. President, in private corporations is fairly standard in the United States. In the Philippines, I think it started sometime in the 1980s, and the Chairman had also some contribution in this. We borrowed from both English jurisprudence and American corporate practice.

The indemnification clause basically states, and I read it so that I will not misstate. It states:

Indemnifying members of the Monetary Board or officers or employees of the Department performing supervision and examination functions against all costs and expenses reasonably incurred by such persons in connection with any civil or criminal action, suit or proceedings to which he may be or is made a party by reason of the performance of his functions or duties, unless he is finally adjudged in such action or proceeding to be liable for negligence or misconduct.

The principle, Mr. President is, when he exercises his functions within the limits of his authority, without abuse, and he is sued and we do know that some persons are litigious enough to sue to try to create a paralysis, then the institution must extend you an indemnification for legal costs. Unless, of course, despite all the support for legal expenses, he is eventually convicted as having been either negligent or having been criminally responsible, then, the indemnification will be taken away from him.

Senator Romulo. Mr. President, in the Bank of England, there is a provision there that all those involved in the Bank of England are given what they call regulatory immunity, so that they cannot be sued except when there is a criminal negligence. I wonder if we can ask the distinguished sponsoring Chairman and the panel to look into that because it may be a provision that can be considered. I am not too familiar with that particular provision

but I know that except for criminal acts, they are given regulatory immunity and therefore, they can more truly perform their supervisory and regulatory function without fear of being hailed to court and oftentimes it impairs their ability to perform their functions which is a very basic function of the Central Bank.

So, I propose that for consideration, Mr. President.

Senator Roco. Yes, Mr. President. By way of reacting, there are a number of statutes that extends immunity to certain individuals. The more famous or, as you wish, the more notorious, would be the immunity granted the PCGG. And it is not an experience that has a happy conclusion. Because of the immunity, especially in the initial stages, there was a tendency to over-extend, to overreach, to go beyond the normal bounds of diligence.

I accept, Mr. President, the principle of some kind of immunity or have a focus on areas where these regulatory persons may be charged, like limiting it to criminal negligence. So, a formula can be evolved.

I also accept, Mr. President, the real need to allow the Central Bank to exercise regulatory functions without paralysis and fear considering their small salaries and their relatively low compensation. Even with these increases, they still stand to lose their retirement and their peace of mind because of cases that are filed against them. It has allowed banks sometimes to bully the examiner. My problem, Mr. President is, as a lawyer, I also worry about those who may be bullied by the examiner.

So, if the Gentleman could help us create this balance, maybe we can put it in as a committee amendment.

Senator Romulo. Mr. President, that is my concern. I am likewise concerned about the other side of the coin as he has intimated and that is the abuse. That is why the balance is important because we must give them the wherewithal so that they can continue to perform that very important supervisory function because as has been our experience, Mr. President, if we allow some banks to continue with their merry way, in the final analysis, the people have to pay, because we have to pay and bail out these banks. We know how many banks have misused the people's funds. Mr. President, it is not only government funds that we should protect. We should protect it by all means. But the deposits, Mr. President, of many private persons, including the government, in these banks, many hard-earned deposits, if we do not protect that, if we leave the banks to go their merry way, as it has happened in the past, and we clip the wings of the supervisory or regulatory power of the Central Bank, then we are not doing our job for these depositors, small investors, et cetera.

So, I am satisfied with the response of the distinguished Gentleman, that we must provide protection. He mentioned the

steps in the regulatory function of the officials, the employees of the bank, the indemnification, and then we are now discussing certain immunities, a balance that we can provide if we use our brains together.

But let me go now to the other side of the coin.

In the new Monetary Board that is going to be established with the new Bangko Sentral, this new Monetary Board will, among others, recommend the rehabilitation measure for the old Central Bank, so that the liabilities can be settled or liquidated, whatever. But, Mr. President, as has been pointed out here also in the Floor, the reason the Central Bank sank to the depths that it has sunk — and I mean "depth" as well as "debts" — is that also of certain culpable acts by officials and personnel of the Central Bank.

Mr. President, one of the most celebrated — to use the word of Senator Tatad, but perhaps I would use the word "infamous" — is the P1.4-billion bloating or increasing of the reserves, and some say that it is not only bloating but it was used as a cover-up in order to surreptitiously remove gold, et cetera, which is still, I believe, pending investigation in the Committees here.

Therefore, my point, Mr. President, is that, if we have a new Monetary Board, I am concerned about the qualifications and who will be appointed to this new Monetary Board.

Mr. President, we now have this spectacle in the judiciary, where the distinguished Sponsor and Chairman himself, I think, has made statements and others have made statements that, for instance, the Supreme Court should not be the judge itself of the charges brought against it; and that it has been suggested — I think it is by the distinguished Sponsor and Chairman himself — that if there are accusations against the Supreme Court, then perhaps instead of the Justices themselves constituting a panel to judge and acquit themselves, that perhaps, venerable and reputable ex-jurists should be those who will constitute the panel.

So, that brings to my mind that if the new Monetary Board is going to look into this, perhaps there should be certain disqualifications on Members of the Board or officials who have been in the Central Bank during the period under review.

In fact, Mr. President, I recall very well, in 1987 when the Committee on Banks — I believe Senators Gonzales, Maceda and Guingona were also present — we met with David Clobb who was the chairman of the Advisory Committee of the banks dealing with the Philippine debts. He said, "You know I am amazed that after all the scandals and what happened in the Central Bank, no one has been fired. Everybody remains in the Central Bank."

If that has happened in other banks, there would be wholesale dismissal and firing and yet, here, in the Central Bank, everybody stays in place and not a single official has been fired, dismissed or charged. So, he expressed consternation and amazement at that.

Mr. President, as we establish a new Bangko Sentral, as we establish a new Monetary Board, are we just going to the usual qualifications and, therefore, any old Central Bank governor or deputy governor or member of the Monetary Board may be reappointed to the new Central Bank Monetary Board? I am posing that question and concern, Mr. President.

Senator Roco. I have no particular inclination, Mr. President, to the comment to the President of the Republic that any old or new former governor of the Central Bank should be reappointed.

I cannot work my way, however, into a provision in the bill saying that they should be disqualified because it will be a stigma that suggests class legislative action, and it may not be good. It even looks like a bill of attainder.

Senator Romulo. I realize that, Mr. President, but I am expressing my concern.

Senator Roco. Yes. My other problem, Mr. President, is that it is an executive privilege and I guess, if the President desires to reappoint these people, then it is his lookout.

My own preference, Mr. President, is that they should not be, and maybe, we should put it on record as strongly as possible so that the Executive Department can be guided, that with a new Bangko Sentral, the most appropriate thing to do is to have in fact a new leadership, a new competence, a new vigor, a new blood so that we will not have a new institution only to be dragged down by old tired blood that is no longer imaginative.

Whether we want that into the bill, I leave it to the Gentleman, but I feel exactly the same way.

Senator Romulo. Mr. President, I have expressed that concern because the Sponsor and Chairman is also a distinguished lawyer. While I am unable to frame a provision because of my concern about what he had expressed but, at least, on the record, Mr. President, we should be very clear and emphatic that the future governor and members of the new Bangko Sentral and the new Monetary Board should have no taint, no mark of the old regime, particularly those who were in the Central Bank during the infamous period when the fortune and the reputation of the Central Bank and economy sunk to its lowest depth, when that P1.4 billion was discovered by the international bankers, and our name was zero in the international community.

Even now, Mr. President, we can ask the international bankers, and this is something that up to now they have not forgotten.

Also, Mr. President, if the new Monetary Board is going to judge what happened why we incurred all those debts, private sector debts, for instance, assumed by the Central Bank, swaps and all that, then, I believe that there should be new and fresh faces. I do not know if we can put that in the law. I have the same reservation as the distinguished Sponsor and Chairman, but I am expressing it for the record and, perhaps, as he indicated, this should be a clear statement to the President who is the appointing power, if we are unable to do something with the law, to take heed of this so that it will truly be a new Central Bank and a new Monetary Board.

Senator Maceda. Mr. President.

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

Senator Maceda. With the permission of Senator Romulo, may I intervene on this particular point, Mr. President.

Senator Roco. May I just make a reply, Mr. President.

I think I understood the distinguished Gentleman to be referring to former governors or even the incumbent governor and, maybe, Monetary Board members. I just want to state that he should also say good words for the personnel and officers of the Central Bank who have toiled long and hard and have merited commendations. Under the most trying conditions, they have supported and they have worked hard and long. I think that credit should also be recognized by this Senate.

Senator Romulo. Mr. President, I draw the line and I recognize the thousands of hardworking personnel who chafed under the experiences and practices in the past. In fact, if I am familiar or aware of many of these goings-on, it is because of the many good men and women in the Central Bank and many of them are sitting here now. What I refer to are the high officials, the members of the Monetary Board. It is common knowledge, Mr. President, that this would not have happened if it were not with the collusion of many of these high officials, and some are still with the Central Bank.

Senator Roco. Yes. And, in fact, one could say that it is not restricted to the Central Bank Monetary Board alone but maybe, as the Gentleman puts it, high officials not necessarily with the Central Bank itself during the time when we somehow managed to outdo ourselves in accumulating these liabilities.

The Presiding Officer [Senator Aquino]. May we now recognize Senator Maceda.

Senator Maceda. Mr. President, I asked to intervene because I take a slightly different view from the two Gentlemen on the subject. I was precisely going to expand — if there is any possible prohibition — the suggestion of Senator Romulo to expand it to all the employees of the Central Bank. I am not going to be popular on that row over there [*Referring to the Central Bank personnel at the gallery*] but, first, that there should be a prohibition that all retired employees of the Central Bank should not be allowed to be reactivated and join the new Bangko Sentral. There has been this problem that they allow people to go on early retirement, whether it is the DBP, the PNB, or even here in the Senate. They get substantial early retirement benefits and the next time around, we see they are still there exercising the same functions under the guise of consultant, contractual or some other arrangements.

Second, if we will adopt this two-body approach that we retain the old Central Bank to do this and to do that, and then put up a new Bangko Sentral altogether, would it not be better that we do not allow any cross-pollination? Just allow them to stay as employees of the old Central Bank and get totally new people, purified people from top-to-bottom, so to speak, in the Bangko Sentral. That is the question, Mr. President.

The President. Any comments, Senator Roco?

Senator Roco. Mr. President, as a matter of policy, I think one cannot proscribe the ability of management to tap into the experience of the past. In fact, the need for communal memory, the need for continuity of experience, is essential in the running of institutions. While it is desirable in the abstract to have a totally new Bangko Sentral composed of totally new people, in the real world, Mr. President, that is not altogether workable because institutions like the government must operate on a continuity of experience.

I have no love lost for any past governor, incumbent governor, or any top official, but when we address the principle suggested, I think, Mr. President, we should take pause.

During the confirmation process in the Commission on Appointments, I think it was the Gentleman from Bulacan who made a big issue out of a statement of one of the Secretaries — and there is only one who was not confirmed — when he made a misstatement about cronies. And true enough, the negative allegation, the negative innuendo, was called to task. If we start saying, "All those who were past affiliated with the Central Bank should be looked down at," it really partakes of a legislative declaration of the incompetence in ability. In my view, Mr. President, that is exactly what a bill of attainder is. And it is not called for, and that is my answer to the Gentleman.

Senator Maceda. Thank you, Mr. President. And let me just...

Senator Roco. No, Mr. President. Let me request, I will yield again to the Gentleman later, because he has reserved his right. But we have allowed all these tripartite interpellations and it is burdensome. It is not correct procedurally, because when the Gentleman stood up yesterday, he said he wanted clarity, but, precisely, we cannot clarify when there are three. And then somebody again will stand up and they will all yield.

So, I will request, Mr. President, if the Gentleman would be so kind, not to press my having yielded, because I would prefer to finish with Senator Romulo and then we can take this up again later on as he wishes.

Senator Maceda. Mr. President, that is the privilege of the Gentleman on the Floor. I intervened with permission. And certainly, if that is his request now, I will yield. I just thought, as we usually do, that we precisely intervene at certain points on the specific matter under consideration so that it will not be brought up again at a future interpellation. So, I will yield with just one brief statement of my position before I totally overlook it in the future.

I do not argue with a bill of attainder theory. I am arguing from the same theory that no matter who we put as chief of the Philippine National Police, unless we eradicate almost totally the bad infrastructure below him, we do not have a chance improving the situation. I am arguing, probably, partly from the Erap theory that we must have a substantial restructuring of the Judiciary for us to really clean up the Judiciary. I am arguing from the theory of some of the contractors that no matter whom we put as Secretary of Public Works and Highways, unless we totally clean up the syndicates operating below, *walang mangyayari*. Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. All right, thank you, Gentleman.

Senator Roco. The point is well-taken, Mr. President, but that is for another day.

Senator Romulo. Mr. President, let me just put my statement again that there are many good men and women in the Central Bank, and I think we should continue to make use of them.

What I am against is the appointment in these critical and sensitive positions of those who were responsible with policy, those who were members of the Monetary Board then, as well as the high and top officials.

Mr. President, let me also state for the record, since we are also conveying this message to the President, that I hope the President and the Executive will take notice of our comments that the new governor to be appointed should be a fresh face, should have had no dealings whatsoever with the Central Bank, so that he can look at this with a totally no-jaundice point of view. I also hope — although Senator Saguisag and myself had looked at this issue — that we can subject them to the confirmation by the Commission on Appointments and that, of course, is an original proposition that Senator Saguisag and I have, except that we felt that unless the Constitution is amended, that would not pass muster. But at any rate, I am in favor of including that provision in the present proposed new Bangko Sentral, and let us hope that with the changes in the composition of the Supreme Court at this time, we can have this provision take effect even before the Constitution is amended.

Let me go now to the last point because we are running out of time, and I said I would like to give the others an opportunity. This pertains, Mr. President, to a very important matter, and these are the fiscal and monetary functions.

Mr. President, one of the reasons, in addition to the collusion by high government officials, that the Central Bank is where it is now is the fact that there was no proper delineation between the fiscal and the monetary functions. In fact, if we look at the consolidated public sector deficit — 40 percent, 50 percent, sometimes more than 50 percent of the entire public sector deficit because of the Central Bank deficit — the reason for that is the Central Bank continues to perform fiscal functions.

Therefore, Mr. President, in the new proposed Bangko Sentral Act, have we finally delineated these functions so that the functions of the new Bangko Sentral will be limited to monetary functions?

Senator Roco. Mr. President, that is the effort of the bill that is why there is a bias against the Secretary of Finance being involved with the Monetary Board because we cannot help him in pushing fiscal policies.

Again for the record, Mr. President, there are two areas in the bill that the good Gentleman is touching on. One is the fiscal policies, and the other is the fiscal agency functions. The fiscal agency functions are sought to be deleted. These are found in Section 112, "The Marketing and Stabilization of Securities for the Account of the Government." These are fiscal agency functions and they will all be phased out in five years. So Section 112 all the way to Section 117, Mr. President, are phased out. But these are as far as fiscal agency functions are concerned. They refer to servicing foreign exchange requirements; they refer to administering the U.S. Dollar Working Fund; they refer to the Securities Stabilization Fund which, I am informed, involves less than a billion pesos; they involve accounting of foreign exchange

receipts, and other functions authorized by the Monetary Board. Those will be phased out.

So that will be one fiscal agency burden that the Monetary Board will no longer be performing.

As far as fiscal policies are concerned, Mr. President, and we want to put this on record also for clarity and distinction later on, fiscal policies generally refer to the use of taxation and government expenditure, to regulate the aggregate level of economic activity. The use of fiscal policy entails changes in government budget, including the possibility of deficits. The way, therefore, the government deficits are financed matters a lot because they have varying impact on the economy, and when deficits are financed by manipulations, when the Central Bank or the Monetary Board starts lending to the government or they start printing money, then that could lead to inflation. When deficits are financed by borrowing from the general public like selling treasury bills, then we are competing with the private sector.

These fiscal policies properly belong to the Secretary of Finance. These functions to regulate the fiscal policies and to enunciate fiscal policies and implement them properly belong to the Secretary of Finance whom we should keep out of the Monetary Board.

Senator Romulo. Mr. President, I accept the response of the distinguished Sponsor and Chairman. I just want to stress the point that I was reading the aforementioned section, Sections 112, 113, 114, 115, 116 and 117. So long as the Bangko Sentral itself is not the one issuing its CBCIs, so long as it is not the Central Bank itself or the new Bangko Sentral that is directly involved in this operation, then it satisfies my question.

I just want to stress that in its monetary function, it should be concerned with money supply, money growth, interest rates, and price stability. And that is more than large enough to occupy its time.

But when it comes to spending, deficits, as what has happened with the swaps, and the like, then those are the functions that we should not allow this new Central Bank to indulge in.

At any rate, Mr. President, I believe that Senator Tañada already touched on this in the period of interpellations. I will not dwell on it further, except that during the period of amendments, we will discuss with the Chairman and Sponsor whatever we find in these particular sections, starting with Section 124, which is really a fiscal agency matter, up to the said sections that we mentioned.

Senator Roco. Mr. President, just by way of additional information. In the effort of the bill to separate the fiscal functions

from the monetary policy functions, the 73-a of Republic Act No. 265 has also been repealed so that the Central Bank may no longer now establish a wholly owned corporation for the purpose of providing foreign exchange cover for foreign or external debt. This is one of the causes of the ESAA, Suspense Account, bloating up. That is also deleted.

The other one, Mr. President, is not a deletion. But under Section 23, page 57 of the bill, there are certain prohibitions articulated:

“The Bangko Sentral shall not acquire shares of any kind or accept them as collateral and shall not participate in the ownership or management of any enterprise either directly or indirectly.”

Furthermore, Mr. President, “the Bangko Sentral shall not engage in development banking or financing; *Provided*, That these restrictions shall not apply in cases where, pursuant to the terms of agreements with international and regional intergovernmental financial organizations, the Bangko Sentral is designated as the conduit for development loan funds; *Provided, further*, that outstanding loans obtained or extended for development financing shall not be affected by the prohibition of this section.”

So, those are additional inputs in the effort of the bill to keep monetary separate from finance.

Senator Romulo. Mr. President, we will not interpellate further on this matter. We had expressed our view to the distinguished Sponsor and Chairman, first, on the membership from the private sector that we would hope to propose and we would hope for its acceptance, that out of the seven members, six will come from the private sector and that the six will be full time.

We hope that the Sponsor can consider that. We will not touch anymore on further accountability, transparency, and reporting, which are important, Mr. President, because these have also been touched. Perhaps, in the period of amendments and even off the Floor we could discuss this with the Sponsor and Chairman.

That is all, Mr. President. And we would like to thank Senator Roco for his patience and understanding.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1235

Senator Romulo. Mr. President, I move that we suspend consideration of Senate Bill No. 1235.

The Presiding Officer [Senator Aquino]. Is there any objection? [*Silence*]

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, may I ask for a one-minute suspension.

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

It was 12:05 p.m.

RESUMPTION OF THE SESSION

At 12:06 p.m., the session was resumed.

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

Senator Webb. Mr. President, parliamentary inquiry.

The Presiding Officer [Senator Aquino]. Senator Webb is recognized.

PARLIAMENTARY INQUIRY OF SENATOR WEBB (Reservations to Interpellate Later)

Senator Webb. I think there were three or four speeches that were submitted for the record yesterday. My question is, after the break, when we resume session again, will all of these speeches be subject to interpellation?

RULING OF THE CHAIR

The Presiding Officer [Senator Aquino]. After the break, if the one who submitted the speech is willing to be interpellated, I think we can allow that, if we have time, if the one who gave the speech is willing to be interpellated.

Senator Roco. Can we have that ruling back, Mr. President?

The Presiding Officer [Senator Aquino]. There were several speeches submitted yesterday for the record. If any of the Senators want to interpellate those who submitted the speeches, with the permission of those who submitted the speeches and if we have time, we can allow this when we resume some time in July.

Senator Roco. May I put on the record my observation against the ruling, Mr. President.

When the Gentleman from Manila started raising a question of quorum and started calling attention to the Rules, then I think we should start complying with the Rules. That cannot be. Because, in fact, the moment a Gentleman sits down just

Senator Osmeña. Let us test the Gentleman's proposition, Mr. President. In the case of Philip Morris, since the provision here on page 3, line 3, is 55 percent or P5.00 per pack, what we will collect here is P7.72. I do not have a calculator here, but I presume P7.72 corresponds to a registered wholesale price of about P14/P15 or P14.50.

Senator Herrera. Yes.

Senator Osmeña. Maybe the staff there sitting behind the Gentleman, has a calculator — P7.72 divided by .55.

Senator Herrera. If the Gentleman is referring to the Philip Morris, the constructive wholesale price is P14.04.

POINT OF ORDER

Senator Maceda. Point of order, Mr. President.

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

Senator Maceda. Without meaning to limit the right of the Gentleman from Cebu, are we in the period of interpellations or in the period of amendments?

The Presiding Officer [Senator Aquino]. The Senator from Cebu is interpellating.

Senator Maceda. I see.

Senator Osmeña. Mr. President, for the information of Senator Maceda, my amendment here is to increase the price per pack on line 4, page 3, to P10.00.

Senator Herrera. Which I am not accepting.

Senator Osmeña. Which he is not accepting. So, we are now analyzing the effect, Mr. President, of that amendment.

Senator Maceda. I do not mean to limit the Gentleman. I just wanted to make sure that we are in the period of amendments so that after two or three hours of analyzing, can we vote on the proposed amendment?

Senator Osmeña. That is correct, Mr. President. Under the rules we can analyze the implication and the impact of each and every amendment on all of these brands. There are about two pages of brands.

Senator Maceda. So, after about two hours, we could possibly agree to vote on the Gentleman's agreement, Mr. President.

Senator Osmeña. Depending, Mr. President, if we have to use a calculator or we have to calculate by longhand.

Senator Maceda. Thank you, Mr. President.

Senator Osmeña. So, going back to Philip Morris 100, P7.72 floor tax. What is the registered wholesale price here?

Senator Romulo. Mr. President,

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

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 4:34 p.m.

RESUMPTION OF THE SESSION

At 4:36 p.m., the session was resumed.

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

Senator Romulo. Mr. President.

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

SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 8308

Senator Romulo. Mr. President, in the meantime, may I move that we suspend consideration of House Bill No. 8308 while the computation, the computer and all of these are being made between the Sponsor and the Gentleman interpellating.

The Presiding Officer [Senator Aquino]. Are there any objections? [Silence] Hearing none, the motion is approved.

BILL ON SECOND READING Senate Bill No. 1235 — The New Central Bank Act (Continuation)

Senator Romulo. So that we can make use of the time, although we will be here up to ten o'clock again tonight and we

have prepared dinner and snacks, may I move that we resume consideration of Senate Bill No. 1235 as reported out under Committee Report No. 138.

The Presiding Officer [Senator Aquino]. Resumption of consideration of Senate Bill No. 1235 is now in order.

Senator Romulo. Mr. President, we are still in the period of interpellations. I ask that the Chairman of the Committee on Banks be recognized and for his turn in the interpellation, Senator Ople.

The Presiding Officer [Senator Aquino]. Senators Roco and Ople are recognized.

Senator Ople. Will the distinguished Sponsor yield for just a few questions, Mr. President?

Senator Roco. Gladly to the Gentleman from Bulacan, Mr. President.

Senator Ople. I will have two sets of brief questions: One is of general and fundamental character, and the other pertaining to two or three specific provisions of the bill, Mr. President.

My first question is: Why are the Sponsor and, in fact, all the government institutions mobilized in order to put this bill forward, including President Fidel V. Ramos and the Department of Finance? Why do they consider this bill necessary, Mr. President? Has the Central Bank outlived its importance? Has the time come to implement the constitutional provision for a Central Monetary Authority? Or do the conditions of the economy put us in the sort of a framework where we must respond to the pressures of international institutions to come up with this bill, Mr. President?

Senator Roco. To my understanding, Mr. President, there are three reasons: The first has been mentioned by the Gentleman. It is a constitutional mandate, and we are late enough as it is. The second — I do not have a direct personal knowledge about this — we are made to understand that it will help the country avail of the \$450 million loan sometime in July or by the end of June. There is no official communication to the Committee. Even the President has not stated that this is so, but we get it from some people in the Central Bank.

The third reason is management, to the extent that we can strengthen now the Monetary Board with new powers and with greater flexibility. To that extent we allow them to solve the problems faster. And the sooner they get done, the better.

Those are the reasons, I understand, Mr. President.

Senator Ople. To a certain extent, we are also acting on unverified assumptions of certain undertakings made by our government to foreign institutions, the attempt to put this issue over the CMA bill within a timetable, shaped by these negotiations with the international institutions. Is that correct, Mr. President?

Senator Roco. That appears to be so, Mr. President. But, again, it is largely based on newspapers and some speeches of the governor of the Central Bank and general information that the distinguished Gentleman can collect from the milieu of the banking sector.

Senator Ople. Has the working relationship between the two political branches of the government not developed to a degree where official verifications of these assumptions can be made in connection with these proceedings in the Senate, considering that we seem to be aware of a deadline, a time frame, and therefore, strongly feel the pressure to expedite the enactment of this legislation? Is there no communication from Malacañang to the President of the Senate attesting to this urgency?

Senator Roco. I am not certain if there is a formal communication, Mr. President. The Presiding Officer is mentioning it. Maybe he would like to read a communication.

The Presiding Officer [Senator Aquino]. Yes. In the third additional Reference of Business for today, it says, "Letter of His Excellency, President Fidel V. Ramos dated June 2, 1993 certifying to the necessity of the immediate enactment of the Senate Bill and the House Bill on "THE NEW CENTRAL BANK ACT" or the "CENTRAL MONETARY AUTHORITY" to meet a public emergency arising from a failure to create an independent Central Monetary Authority as mandated by the Constitution.

Senator Ople. I believe that is a proper response to my question. There is a certification on the existence of a public emergency.

Senator Roco. That is correct, Mr. President, arising from the inability to comply with the constitutional mandate to create a Central Monetary Authority. I think those are the wordings of the certification.

Senator Ople. The constitutional language pertains to a calamity or an emergency. Is that not right, Mr. President?

Senator Roco. In certifying an urgency, Mr. President, that is correct.

Senator Ople. So in this case, it is a public emergency.

Senator Roco. Let me just get the text, Mr. President. The certification as to the necessity of the immediate enactment of the

Senate bill and the House bill on the New Central Bank Act or the Central Monetary Authority is premised on the need to meet a public emergency arising from a failure to create an independent Central Monetary Authority.

Senator Ople. When was this received, Mr. President?

Senator Roco. It is in the third additional Reference of Business today, Mr. President. I think the first certification was objected to at the caucus last Monday, and so the Palace modified it to overcome our objections.

Senator Ople. So, between last Monday and today, there has been an amendment of the presidential certification of this measure.

Senator Roco. Yes, Mr. President. Between last Monday and today, the sense of urgency has increased.

Senator Ople. Does a letter like that from the Office of the President determine the existence of a public emergency, arising from the failure to create a Central Monetary Authority, as provided for in the Constitution, Mr. President?

Senator Roco. That is correct, Mr. President, and that is under Article XII, Section 20 of the Constitution.

Senator Ople. The Constitution also provides for the creation of an independent Economic Planning Authority. And I believe no certification of a public emergency has been promulgated in that respect.

Does the Gentleman remember whether this is the subject of another certification of a public emergency on the same ground that, whereas the Constitution provides for an independent Economic Planning Authority, Congress has not been able to create one, and that, therefore, a public emergency exists?

Senator Roco. The Chairman, Mr. President, does not remember any similar certification. But to my recollection, the mandate in the Constitution, as regards an independent Economic Planning Authority, is differently phrased. It seems, however, that the NEDA for now seems to, in their mind, at least, be doing their job. They have even come up with some kind of an economic development plan.

So while the independence of the Central Bank, at least, to the governor, appears impaired by their present difficulties, NEDA does not seem to feel the same constraints to their activities.

Senator Ople. So, it is the difficulties being experienced by the Central Bank that probably account for this state of public emergency that we are asked to address through expeditious

action on this bill. And these difficulties, on the other hand, are closely associated with some of our obligations to international financial institutions. Would that be correct, Mr. President?

Senator Roco. That can be stated as correct, Mr. President.

Senator Ople. To some extent, is this Senate then hostage to demands of certain foreign financial institutions, Mr. President, so that no less than the President of the Philippines certifies to the existence of a public emergency as the ground for the expeditious passage of this bill? Is there a gun being cocked behind the back of the Philippine Government that makes this a public emergency?

Senator Roco. If there is, Mr. President, it is not to the knowledge of the Committee, and the Committee certainly did not act because of any sense that there was a cocked gun behind anybody's back.

Senator Ople. I am very glad to hear that answer, Mr. President. I will now go to just a few specific provisions, and then will terminate my interpellation.

If the distinguished Sponsor will kindly refer to page 15 of the Senate version, under Section 25, there is a subtitle, "Bank Deposits and Investments." This Section seems to endow the examiners of the Central Bank with draconian powers. We might almost characterize this as an unlimited visitorial power. It states that "the Monetary Board may authorize the examiners to examine deposits of whatever nature with banks, as well as investments in debt instruments of the government, after it is satisfied that there is ground to believe that a bank fraud or serious irregularity has been or is being committed, and that it is necessary to look into the deposit to establish such fraud and irregularity."

Mr. President, will this not undo the long history of the policy granting the sanctity of confidentiality to bank deposits, except where there is an order of a court?

Senator Roco. Mr. President, may we just call attention of the Gentleman to the way the full paragraph reads. This refers to the Monetary Board as authorizing examiners. The examiners, in any event, look at all these deposits. And so, the secrecy of bank deposits does not preclude the examiners because that is their functioning right. So, there is no secrecy of bank deposits applicable to the examiners. In fact, their job is to ensure that all the books of the banks are correct. To that extent, therefore, and only to that extent, there is respect for the secrecy because it does not open it to other people; it opens it to authorized personnel whose duty, in the first place, is supposed to look into the bank books.

But the latter paragraph, Mr. President, gives the Gentleman's question adequate basis. The third paragraph speaks of a waiver

of the confidentiality of bank deposits when directors, officers, or stockholders or their related interests borrow or get into financial accommodation with their banks or with related interest of their banks.

In other words, Mr. President, what is sought to be prevented is the "You scratch my back and I scratch yours." The DOSRI and the DOSRAS, the director, officers and stockholders and related interest prohibition can be overcome by just borrowing from somebody else's bank. And then the owner of that other bank can borrow from my bank, for instance. Let us say, an Ople Bank, Ople cannot borrow but he can borrow from the Roco Bank, and Roco can borrow from the Ople Bank.

So, to avoid that, Mr. President, or to strengthen the monitoring of the situation, under the enumerated factors of Section 25, the director, officer or stockholder concerned who borrows from related interests is deemed to have waived the secrecy of his own deposits in the involved banks.

Senator Ople. Mr. President, I have no objection if these draconian powers, as I call them, in the hands of examiners are limited to DOSRI accounts. Will the Gentleman therefore welcome an amendment at the proper time to clarify the extent of these powers and the manner in which they will be applied under Section 25?

Senator Roco. Yes, Mr. President. In fact, we would welcome suggestions that will further fine-tune these mechanisms to protect public interest.

Senator Ople. I have just one more question, Mr. President, and that pertains to Section 15 on page 7 concerning responsibility which states:

Any member of the Monetary Board who willfully violates this Act or who is guilty of negligence or acts of omission or fails to exercise extraordinary diligence in the performance of his duties shall be held liable for any loss or injury suffered by the Bangko Sentral as a result of such violation, negligence, omission, or failure to exercise extraordinary diligence.

Will the Gentleman, at the proper time, welcome a broadening of this statement of responsibility so that it will include officials, examiners and employees of the Bangko Sentral committing the same offenses?

Senator Roco. We will welcome this proposed amendment, Mr. President. We have a small caveat. The wordings of the applicability to personnel must be very focused so that the accountability will be greater. But subject to that caveat, we have no objection, and we welcome the proposed amendment.

Senator Ople. I am satisfied with the answers of my Chairman, Mr. President. Thank you very much.

Senator Roco. Thank you very much.

The Presiding Officer [Senator Aquino]. Thank you, Senator Ople.

The Majority Leader is recognized.

SUSPENSION OF THE SESSION

Senator Romulo. 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 4:57 p.m.

RESUMPTION OF THE SESSION

At 4:59 p.m., the session was resumed.

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

Senator Romulo. Mr. President. I ask that the distinguished Gentleman from Manila and Rizal, Senator Arturo Tolentino, be recognized for his interpellation.

The Presiding Officer [Senator Aquino]. Senator Tolentino is recognized.

Senator Tolentino. Mr. President, will the distinguished Gentleman yield to just a few questions?

Senator Roco. We will be honored to do so, Mr. President.

Senator Tolentino. Mr. President, I have several matters here in this bill, but I will postpone the others to the period of amendments in order to abbreviate the interpellations.

I would like to just address two particular points in this bill. One of these has already been taken up by the distinguished Gentleman from Bulacan, but I would like to pursue this a little more.

Mr. President, does this provision of Section 25 not actually modify the provisions on the secrecy of bank deposits under Republic Act No. 1405, as amended by Presidential Decree No. 1792?

Senator Roco. To the extent that it applies to a director, officer or stockholder who, together with his related interest, has an outstanding loan or some form of financial accommodation from banks and financial institutions, that is correct, Mr. President.

Senator Tolentino. I think this actually nullifies the provision on secrecy of bank deposits. Under PD No. 1792, although the Monetary Board could conduct examinations with respect to bank deposits, it is expressly provided that it must be in the course of a special or general examination of a bank. But that is not so in the case of Section 25. In other words, under Section 25 now, the examination can be of a specific bank deposit. That is precisely what is sought to be prevented by RA No. 1405.

Does the distinguished Sponsor not believe that this is a dangerous provision and may actually destroy the banking system in this country?

Senator Roco. We are willing to be guided by the advice of a good Gentleman on how to improve this, Mr. President. We understand that the citation of the Gentleman from Manila is the amendment under PD No. 1792.

Senator Tolentino. Yes. I think even that PD No. 1792 — we must remember that that was promulgated during the days of dictatorship — is dangerous to the banking system because unless we strictly uphold the confidentiality of bank deposits, it is possible that many people may not deposit in banks, especially during these times when kidnappings take place and there are ways of finding out what are the deposits of rich people in the bank.

Aside from that, the examiners may be used by competing banks in order to determine in a particular bank where the big depositors are and then they pirate those big depositors.

This is, to my mind, a provision that can very well be eliminated from this CMA because even if we eliminate this provision, the CMA here as provided would not suffer any change in their purpose, in their objectives, or in their functions.

Would the distinguished Sponsor not consider the elimination of Section 25 and just leave the provisions of PD No. 1792 which, believe, would still be subject to amendment but it should not be in this bill?

Senator Roco. We will run a comparison, Mr. President. Again, there is no disagreement in principle with the observations of the Gentleman, and the Committee will be happy to be so guided.

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

Now, I just go to the other point. I had some kind of an understanding all of this time that this measure that we are discussing now will not have any provisions on transfer of assets and liabilities of the present Central Bank. But I find that from Section 127, we have there provisions regarding transfers of assets and liabilities with a very elaborate mechanism.

Does the Gentleman not believe that it is better to leave the CMA as a new institution without any connection whatsoever with the present Central Bank of the Philippines, especially when it comes to assuming assets and liabilities? I think it has already been mentioned here that even the government of the Philippines, the Congress, will be called upon to furnish funds later because of this transfer of liabilities to the CMA.

Does the Sponsor not believe that it is better to remove all mention of transfers of assets and liabilities from this bill?

Senator Roco. Mr. President, we have no choice but to address the issue because of the total public sector deficit, and because of the constant position and appeal of the Central Bank that they need to have monetary and financial muscle to be able to address adequately certain economic problems we have.

If we were to leave, Mr. President, the old Central Bank all by itself and not address the question of their assets and liabilities, under this bill at some other time, we have to address it and we still have to cross the bridge or the policy choice which has now been reached by both Congress — the House of Representatives and your Committee — Mr. President.

The policy choice is really, one, to pay now or effectively appropriate to pay or assume the obligations of the old Central Bank one way or the other, or to delegate the function of figuring out monetary policy in the Monetary Board as the agency or the juridical entity with adequate primary competence to address such monetary policy issues.

Your Committee, Mr. President, has reached the conclusion that a delegation of power under administrative law concept will be the best way to go. That, notwithstanding, Mr. President, again, by administrative law concept, the delegation must have sufficient standards and guidelines and that is the effort that is exerted under Section 127.

Senator Tolentino. But, Mr. President, I notice that the provisions here will ultimately bring about an end to the existence of the present Central Bank. That once all of these liabilities have been transferred to the CMA, the Central Bank now ceases to exist.

May I know exactly what is the financial condition of the Central Bank — is it solvent or insolvent?

Senator Roco. I am not trying to avoid the question, Mr. President. But in the books I have read, it is very difficult to describe a Central Bank as solvent or insolvent in the sense of insolvency of the Insolvency Law.

Senator Tolentino. Yes, in the sense only of having more liabilities than assets.

Senator Roco. I think it is a fair statement to say that their liabilities are overwhelmingly... They have more liabilities than assets.

Senator Tolentino. They have more liabilities than assets. So, why do they not just go into bankruptcy?

Senator Roco. The Committee has also considered that, Mr. President. In fact, we did recommend at one point in time sometime ago that, maybe, that could be done under Chapter XI... in New York itself. But, apparently, the concept of reorganizing under the bankruptcy law does not apply or cannot be worked out with central banks because, theoretically, they can just keep printing out money and they will have plenty of money.

Senator Tolentino. *Kaya nga.* I mean, after the establishment of the CMA, we have now a Monetary Authority. Then, the Central Bank can declare bankruptcy.

Senator Roco. That can be done, Mr. President. Then it will be also a two-step affair — it is a modification or variation from the proposed solution so we will have the Bangko Sentral after having selected assets and liabilities from the old Central Bank operating as a viable unit, and the remaining old Central Bank will then declare itself under bankruptcy proceedings.

Senator Tolentino. If that is a possible step, Mr. President, then we can remove from the provisions of the CMA all references to the transfer of assets and liabilities, leave the Central Bank as it is and after the CMA has been already organized, then let the Central Bank declare itself bankrupt and terminate its existence.

Senator Roco. We may lose control of the factors, Mr. President, that is why as a policy option — in the opinion of the Chairman — to declare it bankrupt under the Insolvency Law may not be the best option. That is a judgment call, Mr. President.

Senator Tolentino. Mr. President, we respect the opinion of the distinguished Chairman of the Committee, the Sponsor, but I would like to anticipate that we will try to have an amendment in this portion of the bill when the time for amendment comes, because we sincerely believe that if we are going to establish a new Central Monetary Authority, it must be established without burdens; it must be established as a viable organization without

being burdened by liabilities of another organization, and let that organization take care of its own liabilities.

That is how we look at the matter, Mr. President, and I would like to thank the distinguished Sponsor for the answers because now, we know how to proceed when we come to the period of amendments.

Thank you very much, Mr. President.

Senator Roco. Yes, Mr. President. Essentially, the suggestion of the Gentleman is really a variation of Section 127 except that while this Committee recommends that the new Bangko Sentral will take the initiative in cleaning up or in dissolving the old Central Bank — in the suggestion of the Gentleman which we will then look at during the period of amendments — the normal procedures of insolvency will be taken as far as the old Central Bank is concerned.

Thank you, Mr. President, to the Gentleman.

The Presiding Officer [Senator Aquino]. Thank you, Senator Tolentino. Is there any other interpellator?

Senator Romulo. Mr. President, I ask that the distinguished Gentleman from Cebu, Senator Osmeña, be recognized.

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

Senator Osmeña. Mr. President, will the distinguished Sponsor yield for a few questions?

Senator Roco. Gladly, Mr. President.

Senator Osmeña. Mr. President, my first problem with this bill is the order in which the Authors are mentioned.

It is the tradition in the Senate that the first name on the bill is the Author of the lowest numbered bill. So, it should be Senator Romulo.

Senator Roco. That is correct, Mr. President, and that is the order in which the Authors are mentioned.

Senator Osmeña. Is there anybody else, Mr. President, aside from Senator Romulo who is the Author of Senate Bill No. 23?

Senator Roco. Yes, Mr. President. If the good Gentleman will look at page 1, it says, in consolidation of and as substitute for Senate Bill Nos. 23, 367, 844, 868, and 945 introduced by

Senators Romulo, Sotto, Tatad, Herrera, and Coseteng; and then the next bill was filed by Senator Osmeña; Senator Gonzales had his own bill; Senator Guingona had his own bill; and Senator Roco as Chairman, under the Rules, may attach his name as Author after all the previous Authors.

Senator Osmeña. That is correct. I was just checking, Mr. President, I thought Senator Romulo was the only Author of Senate Bill No. 23.

Senator Roco. In the manifestation, Mr. President, and the records of the Secretariat show there were others who were made coauthors.

Senator Osmeña. Thank you, Mr. President.

When we came to office in 1987, Mr. President, after the elections in May of 1987, I found myself as a Vice-Chairman of the Senate Committee on Banks and the Chairman then was Senator Romulo.

One of my first areas of interest, Mr. President, was the Central Bank, mainly because we heard stories about these P100 bills that were printed by Marcos. Some of them were caught in truckloads coming out of the BASECO storage yard. We heard stories about the refusal of the governor then, Jose "Jobo" Fernandez to demonetize and we heard stories that Mr. Fernandez, who is, of course, now being charged in the Ombudsman, refused to accede to the demonetization because he had a few truckloads himself stocked off somewhere. And we heard stories *ad infinitum*, Mr. President. But to me, the most offensive act for which I have not been able to forgive Mr. Fernandez and for which reason I took him to task in that historic hearing where we participated as a Committee of a Whole in the Senate with Mr. Fernandez as a witness, was that when this Representation asked for a financial statement on the budget of the Central Bank, the now accused before the Ombudsman for criminal acts, Jose "Jobo" Fernandez, gave me a one-page statement delivered by his secretary, the lovely Evelyn Haley Page McCullough Escudero, who also operates the canteen in the Central Bank and operates other things at the time of Mr. Fernandez.

Mr. President, I think that that was a supreme insult to give a one-page statement and to refuse to give a Member of the Senate who legitimately, at that time, had a legitimate concern because as Vice-Chairman of the Committee on Banks, I wanted to look into the budget, the plantilla, of the Central Bank.

Mr. President, I will not go over this bill line by line. I would rather work on a calculator with the other bill.

Senator Roco. Thank you, Mr. President.

Senator Osmeña. But I have concerns, Mr. President, and I would like to know from the Gentleman whether or not under this bill the Senate now will be able to obtain from the Central Bank a plantilla of Central Bank employees so that we will know how much the regular employees of the Central Bank are paid and how their salaries compare with those in the private sector and in the other government offices?

Senator Roco. It may gladden the heart of the Gentleman from Cebu, Mr. President, to know that I think your Committee, in fact, received not a complete information but Mr. Cuisia did give us for some kind of information along those lines and there was no resistance. In any event under...

Senator Osmeña. Maybe Mr. Cuisia now is far more democratic than Mr. Fernandez. But in any case, Mr. President, before we approve this bill on Second Reading or before we close the period of individual amendments...

Senator Roco. Can I complete my answer? There are several other provisions in the bill, Mr. President, that will allow a similar request to prosper. No. 1 is the monthly reporting requirement itself, together with profit and loss, and there are very clear reporting requirements. No. 2 is the punishment or the prohibition even against misleading information which is an innovation in the bill, precisely because there is a tendency for technical people to give a series of correct and factually accurate statements but when arranged in a certain manner could lead the Gentleman, or the less technically informed, to a wrong conclusion. So, misleading information which is a norm recognized under American law is introduced in the bill.

Finally, Mr. President, under page 16 on prohibitions, at the Committee amendment stage, I will read the Section: "Personnel of the Bangko Sentral are prohibited from revealing in any manner, except under orders of the court," and we will propose a Committee amendment to say: "EXCEPT UNDER ORDERS OF THE COURT, CONGRESS OR OTHER GOVERNMENT AGENCY AUTHORIZED BY LAW TO DO SO."

So even the personnel, while prohibited from revealing information, may be exempted by orders of a competent government agency or by Congress.

Senator Osmeña. Mr. President, it is very easy to say they are required to make reports. But as the Gentleman has said in his answer, they can make misleading reports.

Senator Roco. Yes, Mr. President.

Senator Osmeña. And they are known to have made those reports.

Senator Roco. Yes, Mr. President.

Senator Osmeña. Even the regular financial statement of the Central Bank every year qualify as a misleading report, as Senator Romulo has repeatedly stated on the Floor.

Senator Roco. Let us hope, Mr. President, that with the bill if approved in those portions, that may be minimized if not altogether avoided.

Senator Osmeña. Mr. President, would we be able to get the line item or the plantilla of the Central Bank before we approve this bill on Second Reading? I would like to test the cooperativeness of the Central Bank while this bill is pending.

SUSPENSION OF THE SESSION

Senator Roco. Can 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 5:21 p.m.

RESUMPTION OF THE SESSION

At 5:22 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 is recognized.

Senator Maceda. Mr. President. with the permission of the Gentleman on the Floor, again so that there will be enough time for the presentation of this, since the Gentleman from Cebu has asked for the plantilla of the Central Bank, I am interested in a specific kind of expenses that we also have not been able to get the Central Bank to give. And that is the expenses of the Governor and all the members of his party every time they go abroad — whether it is for IMF or for negotiations. We have been asking for that type of information, and I would like to get that information too.

At least, from 1986 to the present, all the travel expenses, representation expenses and everything that the Governor or any of the employees of the Central Bank spent on trips abroad.

From 1980, according to the Majority Leader, for all trips abroad for anybody funded by the Central Bank.

Senator Roco. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized.

Senator Roco. Mr. President, let me answer now. We will do with the plantilla, Mr. President, and it will be furnished — all the personnel and how much they earn — subject only to the time for physical preparation.

The staff will be calling the Central Bank and crank it out from the computer, and we will make it available and give it to the Gentleman from Cebu or submit it through the Senate.

Senator Osmeña. Mr. President, I can see some mischief in that colatilla “subject to time.” I cannot believe that the Central Bank does not have a plantilla, a list of their employees which indicates the salary, the position or the benefits.

Mr. President, I was not interpellating on this bill word for word, but until that plantilla is produced, we will have to debate every word in this bill.

Senator Roco. That is fine with me, Mr. President. That is absolutely of no concern to me.

Senator Osmeña. I am not saying it is the Sponsor, Mr. President. I am very suspicious of that colatilla about “subject to time” coming from the staff of the Central Bank.

Senator Roco. In fairness to the Central Bank people, those were my words. It did not come from them.

Senator Osmeña. Okay then, Mr. President.

Senator Roco. Yes, Mr. President. Having said that, let me add, however, that I find the request not quite reasonable under the circumstances considering that under the proposed bill, the old Central Bank will be retained, will be preserved, fossilized, in a manner of speaking. And all those who may want to pursue it, the Chairman of this Committee, as long as he is still Chairman of the Committee, will be perfectly willing to pursue all those information because it is fossilized. In fact, that is one of the advantages of the two-step proposal of our Committee Report. And so, it need not be conditioned precedent for the approval of the bill, because it will be there. Whatever happens, and at leisure or in the soonest possible time, it can be done.

Senator Osmeña. Mr. President, let me just inform the distinguished Chairman that for six years we have been trying to get this information. Senator Maceda himself said that he has also been trying to get the information that he wants, and they have stonewalled us. This is the only time, Mr. President, and after we approve this bill, they will bring back their drawbridge again and we will need catapults to be able to penetrate the Central Bank.

So, while they are vulnerable, Mr. President, let us march, excavate and bring out all of their secrets.

Senator Roco. Yes, Mr. President. It is unfortunate that my good Friend, who is a member of the Committee, did not so request the Committee, because I think we could have gotten it without any great difficulty. From the information given to the Committee, and also of the request we have made, we have yet to meet an instance where they refused to share information. They are still willing to do it for the Gentleman. I am not protecting the Central Bank. I am willing

Senator Osmeña. I understand, Mr. President. It is not a question of the Gentleman protecting the Central Bank. I think it is a question of excessive faith in their good faith.

Senator Roco. It is good to have faith in the good faith of others, Mr. President. Because if we do not have it and we assume bad faith in the dealings with men, I guess even the law and the legal firmament will collapse. Good faith is the presumption of civilized society. So, I guess we have no choice but to do so. But in any event, Mr. President, that notwithstanding again, the plantilla and all these requests will be furnished.

Senator Osmeña. The other request, Mr. President.....

Senator Roco. The other request, all right. Let me get to the request of the Gentleman from Manila and Ilocos Sur. That will take a little time. This is not based on the information given to me by the Central Bank staff, but having seen institutions and corporate bodies operate, from 1980 to the present will be some 13 years. Even under the BIR, I think after five years, they destroy the records. They throw it away or microfilm them and keep them in some old bodega in Taguig where the rent is very low, because it is too expensive to be keeping all these records in some place. And as a consequence, Mr. President, of a very rationale and reasonable practice of corporations or juridical bodies, it will take time to unearth them.

I will be equally pleased to work this out from 1980 if they are available, but that takes time. I am not in any manner trying to hide. Again if the Committee meets the approval and superior judgment of our Colleagues, Mr. President, the old Central Bank

will stay. Senators Romulo, Maceda, and Osmeña, with the help, assistance and all the resources of the Committee will gather this information, if it is necessary, for legislative work.

Senator Osmeña. Mr. President, pertinent to the remarks of the Sponsor, in the case of the request of Senator Maceda, I can see some reasoning and justification because really, to dig back to 1980 cannot be possibly done within 24 or 48 hours. But I would hope that in the period of amendments, we will incorporate provisions that will introduce a concept heretofore unknown in the Central Bank which is transparency, so that we can subpoena records and not have them brazenly lie to us that it is not available and refuse us.

Mr. President, my final point is, when we were hearing before the Blue Ribbon Committee the matter of the decision of the Monetary Board on those complicated transactions of the Bataan Petro Scam or the Bataan Petro Chemical as it was formerly known, we were confronted with the frustrating reality of the Central Bank's refusal to give to the Committee of Congress the minutes or rather the transcripts of the meetings of the Monetary Board of the Philippines. They had refused it — I think the Chairman at that time was Senator Guingona or was it Senator Tafiada — and we were told that there were no transcripts, that the tapes were erased, that they only kept a digest — all sorts of excuses.

So, may we know, Mr. President, if in this bill we have a requirement that the Monetary Board which passes over monetary and fiscal policy must keep at all times the tape recording of all of the meetings that it undertakes, faithfully preserved transcripts, verbatim transcripts as well as minutes because minutes are not necessarily faithful as verbatim transcriptions. So that there will be a possibility for a future investigation to know what transpired at the Monetary Board at the time these billion-peso transactions took place.

Senator Roco. Let me answer, Mr. President, the request of the Gentleman from two levels, one on a matter of policy and one on a matter of practice.

On a matter of policy, Mr. President, the Constitution requires quarterly reports by the Central Bank and the Monetary Board and they have been faithfully doing so to my best knowledge. I do not know whether they are complete reports but they have been submitting to the Senate President and I have been receiving it as Chairman of the Committee in the ordinary course. In the House of Representatives, when I was there in the last Congress, Mr. President, we did receive and had access to the reports of the Central Bank. I cannot attest nor validate the completeness of the information, but they have complied with that.

As far as the constitutional provision on transparency is concerned, in my observation there has been an effort to comply.

As far as the bill is concerned — and this is still on a matter of policy, Mr. President — we invite the Gentleman's attention to Section 37 on the reports and publications which are refinements from the present law.

There is also an annual report which is also a refinement from the present law. At the appropriate time we will certainly be guided by the Gentleman if there are additional reporting requirements that we may want to introduce.

Let me now come, Mr. President, to a question of practice.

I do not know, Mr. President, as a matter of fact whether the Monetary Board tapes their meetings. I am informed by the secretary of the Monetary Board that they do not do it as a matter of practice.

But even if they did, Mr. President, from what I have seen of corporate practice, it is very difficult — unlike in a deliberative session where only one is speaking at a time — to rely on a board meeting tape recording because there are things that happen out of earshot. There are board meetings and collegial meetings where there are semi-informal caucuses which cannot be reflected in the tape. If there are tapes, then I will assure the Gentleman that — I do not know if he wants to introduce them in the bill — we will then request the Monetary Board to preserve them. If there are tapes they are probably preserved. But if there are none, Mr. President, no request may be able to create the tape recordings.

Senator Osmeña. Mr. President, in this day and age, with sophisticated electronic equipment, people can even listen to the conversations going on beyond walls in other buildings. And I would be willing to donate to the Central Bank the equipment that will record every whisper and every whimper in the Monetary Board so that we may be able to comply with the requirements of the Constitution and the transparency requirement of our government.

Mr. President, I will introduce the amendment that will mandate that every meeting of the Monetary Board must be taped with equipment adequate to record a drop of a pin within that Monetary Board. It is unfortunate that there was no recording of the minutes of the proceedings of the Monetary Board when the then Secretary of Economic Planning, Solita Monsod, was a member. She was here with us earlier. If there had been a recording, it would have been an enriching experience to read all her comments when she was with the Monetary Board. I was particularly interested in her opposition to the Bataan Petrochemical transaction when she was with the Monetary Board. Unfortunately, this has not been or is not available.

In any case, Mr. President, I would suggest to the Gentleman — perhaps, because he is a lawyer and we have different fields of expertise — that as an engineer, I can say that there is no such thing as any noise that cannot be recorded in this day and age.

Senator Roco. Mr. President, I do not know if I am authorized by the Central Bank to accept the donation from the Gentleman from Cebu. But if I am, I will be very willing to accept the offer.

In any event, Mr. President, I am informed that they do tape the proceedings and, apparently, they keep a library of the tapes. So they are available and they will be preserved.

Senator Osmeña. Mr. President, a few minutes ago, the Gentleman was told that the tapes are not available. Apparently, they have now decided to confess.

Senator Roco. Mr. President, it is not so much a confession. What they earlier told me was that they do not transcribe. Now it is being clarified. In fact, I have here an unsolicited note and this was offered to me, unsolicited.

Senator Osmeña. Mr. President, I guess all matters of fiscal and monetary policy have been amply discussed by the other Members of this Congress. I am only trying to make sure that those who will follow us to the Senate will not meet the blank wall and the arrogance of the Central Bank as we had in the last seven years. This is a historic opportunity to bring down the walls that surround the Central Bank.

At the proper time, I will also introduce the amendment requiring that the budget showing personnel 001, 002 and 003 of the Central Bank should be submitted to Congress. Not just a one-page report but a line item budget, in the same way that the GAA, the budget of the government of the Republic of the Philippines, is submitted to Congress. I do not see any reason why the Central Bank should be an independent empire on its own.

Thank you, Mr. President.

Senator Roco. We have no disagreement with the concept, Mr. President.

The Presiding Officer [Senator Aquino]. Thank you, Senator Osmeña. The Majority Leader is recognized.

Senator Romulo. Mr. President, I ask that the distinguished Gentleman from Manila, Ilocos Sur and Laguna, Senator Maceda, be recognized.

The Presiding Officer [Senator Aquino]. The last registered interpellator, Senator Maceda, is recognized.

Senator Maceda. Mr. President, may I know what happened to the reservations of Senator Lina and Senator Biazon?

Mr. President, we have just received a few minutes ago, the transcript on the CMA, the first one. While it is probably about a hundred pages long since it is double spaced, it will not take too much time to review. Maybe we can give the Sponsor a 10-minute respite. He can have his coffee. I just need 10 minutes to go over this transcript of the interpellation of Senator Tañada and Senator Romulo before I start my interpellation, if the Sponsor is willing to accept such a suggestion.

Senator Roco. Mr. President, we are generally touched by this expression of concern. Yes. We accept, Mr. President.

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

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1235

Senator Romulo. Mr. President, may I move, in the meantime, that we suspend consideration of Senate Bill No. 1235.

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

BILL ON SECOND READING House Bill No. 8308 — Cigarette Tax Bill (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of House Bill No. 8308 as reported out under Committee Report No. 147.

The Presiding Officer [Senator Aquino]. Resumption of consideration of House Bill No. 8308 is now in order.

Senator Romulo. Mr. President, we are in the period of individual amendments. I ask that the distinguished Sponsor and Chairman of the Committee on Ways and Means, Senator Ernesto Herrera, be recognized.

The Presiding Officer [Senator Aquino]. Senator Herrera is recognized.

Senator Herrera. Thank you, Mr. President.

Senator Osmeña. Mr. President, 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 5:40 p.m.

RESUMPTION OF THE SESSION

At 5:41 p.m., the session was resumed.

Senator Romulo. We are ready to resume, Mr. President.

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

Senator Osmeña. Mr. President, this is the reasonable amendment on line 18, page 2: "below based on the INDEX PRICE, AND THE INDEX PRICE IS THE REGISTERED wholesale price PLUS 20 PERCENT OR 90 PERCENT OF THE MARKETING OR DISTRIBUTOR'S PRICE, WHICHEVER IS HIGHER." And delete the rest of lines 19 and 20.

The Presiding Officer [Senator Aquino]. What does the Sponsor say?

Senator Herrera. It is rejected, Mr. President. I cannot accept that. First, it will be very difficult to monitor the distributor's price, and there is already an amendment on this where it was proposed by the Majority Leader that it would be 80 percent. The truth of the matter is, I accepted that really with a heavy heart because I can foresee the difficulty in monitoring that.

The distributor's price, Mr. President, will be different in different places, and that is why during the hearing of this bill, the BIR was objecting to it because it is really difficult to implement it.

The other reason is, I cannot see the logic why we limit it to 90 percent or why we put 20 percent there, plus the fact that there seems to be an assumption that the distributor is really owned by the manufacturer. I really have my reservation on that, Mr. President.

Senator Osmeña. Mr. President, my amendment actually was suggested by the BIR. It is not the BIR that objected to it. The BIR is the one which suggested that it should be the distributor's price.

Senator Herrera. I do not know who in the BIR, Mr. President, because when they testified here they were against that.

Senator Osmeña. Mr. President, maybe we can have somebody from the BIR come tomorrow here to settle this matter. But let me amplify further.

Senator Herrera. Just for the enlightenment of this Body, Mr. President, will the Gentleman please explain how this amendment will be implemented?

Senator Tañada. Which comes from the manufacturers.

The Presiding Officer [Senator Aquino]. Which comes from the manufacturers.

Senator Tañada. I am ready to vote now, Mr. President.

Senator Herrera. Mr. President, I would like to make a clarification on this. Because in the case, for instance, of cigarettes, we will find that there is a certain percentage at the manufacturers' level in terms of trade margin. There is one for the distributor and there is one for the retailer.

In the case, for instance, of low-priced cigarettes, the retail is quite high. Certainly, it is not the manufacturers who will decide that in this particular *sari-sari* store that should be the price. There are other costs. The cost of operation of the distributors, and that is entirely decided by the distributors, not by the manufacturers. But, if the distributors are the marketing arms themselves, owned also by the manufacturers, then what the Gentleman is suggesting is correct. But it is very difficult to assume that all the distributors are also owned by the manufacturers. Let us be fair.

Senator Osmeña. Mr. President, I think it is pretty well admitted that in the case of one tobacco company, the distributor is a dummy of the manufacturer.

Senator Herrera. Even assuming that that is correct, why does the Gentleman have to punish the others who are honest?

Senator Osmeña. Precisely, Mr. President, this bill punishes the honest taxpayers. What we are seeking to do is to equalize the burden of taxation.

Senator Herrera. This is not the bill that allows the defect. It is the existing law that is being corrected by this bill.

I would like to make it very clear, Mr. President, because this bill will correct the structural defect in the existing law. It is the present law that has loopholes, not this bill.

Senator Osmeña. Mr. President, the bill, as the Sponsor keeps on repeating, is what we are debating here, which is House Bill No. 8308.

Senator Herrera. Yes, but as amended by the Senate....

Senator Osmeña. What I am saying here, Mr. President, is that House Bill No. 8308 is simply a palliative; it is simply an icing to cover up.

Senator Herrera. Let us vote on the issue, Mr. President.

The Presiding Officer [Senator Aquino]. All right, if the Body is ready to vote. I hope it is clear to all. It is not clear because I can see some of the Senators shaking their heads.

SUSPENSION OF THE SESSION

Maybe we should declare a short recess. The session is suspended, if there is no objection. [*There was none.*]

It was 5:58 p.m.

RESUMPTION OF THE SESSION

At 6:06 p.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 8308

Senator Romulo. Mr. President, with the permission of the Chairman and the Speaker interpellating, I move that we, in the meantime, suspend consideration of House Bill No. 8308.

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

BILL ON SECOND READING

Senate Bill No. 1235 — The New Central Bank Act (Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1235, the Central Bank Act.

The Presiding Officer [Senator Aquino]. Resumption of consideration of Senate Bill No. 1235 is now in order.

Senator Romulo. Mr. President, I ask that the distinguished Chairman and Sponsor, Senator Roco, be recognized, with Senator Maceda to interpellate.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized again, with Senator Maceda interpellating.

Senator Maceda. Mr. President, I was at Room 410 but I heard the explanation of the distinguished Gentleman. I think that with regard to my request, we will settle initially, if it is possible, from 1986 — from the Aquino administration — up to now for a report, not for all the expenses of the Central Bank, which we could have very well asked for — not for all the MOOE but just

for the matter of foreign travel. Because this has been the subject of so many columns and comments in the past, how the Central Bank Governor would bring a retinue, go first class, of course — which we do not really have any strong quarrel with — get the best suites in the most expensive hotels in Washington or in New York. And so, I just want to get an idea and to see really how the control of expenditures of the Central Bank, the new one, at least, would be inputted into this bill during the period of amendments.

Senator Roco. We appreciate that, Mr. President. But as far as the plantilla is concerned, it is being prepared now. It might catch up with us if we stay late.

As far as the travel expenses, Mr. President, I think the Central Bank appreciates the cutting down to 1986. It is being prepared. We cannot assure the Gentleman the timetable but it is being done.

Senator Maceda. We can assure the Central Bank employees that we will not even raise the question as to whether known girlfriends of the Central Bank Governor have been included in these trips and paid for by the Central Bank.

Senator Roco. We did not realize, Mr. President, that there are known girlfriends of the Central Bank Governor.

Senator Maceda. Mr. President, may I start with one basic question. I really do not know where to start, that is why I was trying to read Senator Tafiada's and Senator Romulo's interpellations, so I could start somewhere and not duplicate. But I guess, at this point in time, through all the interpellations, one basic premise has not been fully clarified.

Will the Gentleman kindly explain to this Representation where the P308 billion came from? What is the breakdown? Please explain why, let us say, the PIDS, which was one of the witnesses, used the figure P324 billion. There are some who say that, maybe, it is less than P308 billion. But, ironically, the figure has been inflated to frighten the Legislature in acting speedily on this bill. Because with the P308 billion or a bigger amount, the daily interest or loss or cost or whatever we call it, is now pegged at a high rate and, therefore, we are being told, "Act on this fast because we are spending so much to service the P308 billion."

If I recall, during our first term, when I was Vice-Chairman of the Committee on Finance under Senator Gonzales, and we used to have the Central Bank people here, as early as 1989 or 1990, we were already being sounded off to transfer the Central Bank debt to the National Government. At that point in time, barely two or three years ago, I remember — and I do not know whether Senator Gonzales remembers — the figure that was being given to us was only in the vicinity of P35 billion.

According to Senator Gonzales, P37 billion.

How did we, in three year's time, go from P37 billion to P308 billion?

Senator Roco. Mr. President, the explanation that was read by the good Gentleman at the caucus is essentially correct.

The difference, as I can see it, between the PIDS figures and the Neri explanation is the point of time within which they record the loss. I think the PIDS is based on July 19 and the Neri is up to date. So there has been a lessening. There has been an effort also on the part of the Central Bank to lower.

Essentially, I was made to understand, Mr. President — because I was not there — that from 1982, there was a spiraling of losses and liabilities which were booked under the Monetary Adjustment Account as defined by law, under the Exchange Stabilization Adjustment Account and under the Revaluation of International Reserve Account. So, some of the losses at various times were because of the swap arrangements, some because of assumed obligations, some, I would imagine, are the liabilities that the Central Bank assumed for the National Government also. There are a whole lot of different sources, Mr. President.

SUSPENSION OF THE SESSION

Senator Romulo. 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 6:15 p.m.

RESUMPTION OF THE SESSION

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

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

Senator Maceda. Mr. President, I understand the response of the distinguished Sponsor. But as a starting point, because from here flows all interpellations basically, for the record, could the Gentleman just give me specific amounts and specific reasons or sources why P308 billion is the figure as of the time he issued the Committee Report dated May 17, 1993?

Senator Roco. I am sorry I missed that last portion, Mr. President.

Senator Maceda. Three hundred eight billion pesos as of the time the Gentleman issued the Committee Report which is dated May 17, 1993.

Senator Roco. Just for the record, Mr. President, we will ask the Secretariat to reproduce this information. It is a summary of all the liabilities and losses as of 30 September 1992. We will furnish the Gentleman now.

Senator Maceda. So the P308 billion is as of September 1992.

Senator Roco. No. The P308 billion is as of August 1992.

Senator Maceda. As of August 1992. At least we are clear there.

Senator Roco. Yes, Mr. President. What I was referring to are the papers that give details. Now, we will furnish this to the Gentleman, but the summary of the Majority Leader should be used just for the record.

In terms of the suspense accounts, Mr. President, in 1980, for instance, the total suspense account was something like P5.6 billion. In 1981, it was P6.14 billion. By 1982, it was P11.8 billion. By 1983 — and this is the year when Ninoy Aquino was shot — we will notice a big jump from P11 billion in 1982 to P44 billion in 1983 because of the flight of capital and the flight of dollars from the country. There was need for the Central Bank to do something about it.

The country got really hit in 1984. The Gentleman will recall that in 1984 — I think that was when the Binondo — the dollar situation was very bad.

From 1983 to 1984, the suspense account went from P44 billion to P93 billion. So, we will notice, P11 billion in 1982; P44 billion in 1983; P93 billion in 1984; in 1984, it was P121 billion; in 1985, it was P156 billion; in 1987, it was P185 billion; in 1988, it was P209 billion. I do not have the figures for 1989. But as of August, 1992, it was P308 billion roughly.

The reason we keep referring to P308 billion at the beginning of the hearings, Mr. President, was we sort of agreed with the Governor of the Central Bank that hereafter, to simplify everybody's information, we will just keep referring to it as P308 billion. It varies, of course. But, when we are talking already of P308 billion, one or two billion does not matter anymore. So, we just kept referring to P308 billion, and the point of reckoning is August, 1992.

Senator Maceda. Accepting that initial explanation and accepting the P308 billion or whatever previous figure the Gentleman has as the starting point, could we have some sort of a

breakdown of the P308 billion? The Gentleman referred to it by the generic term "suspense accounts." Could we just have a breakdown?

Senator Roco. This is another tricky concept, Mr. President, because the suspense accounts, in fact, are assets and are booked as assets. The breakdown, the Gentleman was reading from Neri — just again because he would have familiarity with the Neri account — I will also refer to it, Mr. President.

The breakdown, Mr. President, again, for the record, in terms of the P308 billion loss or liabilities of the Central Bank are deposits of the National Treasury, P124 billion; foreign currency deposits of the National Government, P37 billion; other deposits of the National Government with the Central Bank, P30 billion; foreign loans payable, P99.4 billion; allocation of special drawing rights, P4.3 billion; open-market instrument, P4.3 billion; and other liabilities other than the above, P9 billion, Mr. President. That is the breakdown of the so-called "P308 billion loss."

I know this is slightly confusing, Mr. President. There are many different ways of looking at it. We can look at it from the total of the suspense account, and we try to figure out — since they are considered assets — what are the corresponding liabilities, or we can break it up in the manner that Neri broke it up.

Senator Maceda. Precisely, Mr. President, if the Gentleman would enlighten me on that. I have heard the Gentleman say it several times. That while we are supposed to have a P3.87 billion loss, sometimes it is called — even here with Neri, P308 billion liabilities come about — now, he however clarifies or hastens to add that part of this are not really losses or liabilities, but are assets.

How much are pertaining to what the Gentleman now describes as not strictly losses or liabilities but really are assets?

Senator Roco. The losses, Mr. President — maybe, I should correct myself. All the suspense accounts that are booked as assets, because they are suspense accounts, really constitute a totality of the losses.

In the assets and liabilities furnished to me, as of August 31, 1992, the suspense accounts are P300-billion-plus and the corresponding liabilities are P308 billion which we already enumerated.

Senator Maceda. Did I not understand from the Gentleman that out of the P308 billion enumeration, they are not all strictly losses or liabilities, but part of this P308 billion could also be classified or considered as assets.

So, I am trying to clarify how much of the P308 billion could be also considered or classified as assets.

Senator Roco. In the balance sheet, Mr. President, which was furnished all the Members as of December 31, 1992, the suspense accounts are classified as assets.

Senator Maceda. And they have P300 billion?

Senator Roco. Yes. Monetary Adjustment Account is P65 billion; the Exchange Stabilization Adjustment Account is P86 billion; and the revaluation of international reserve is P163 billion, which gives us P317 billion as of December 1992.

Senator Maceda. So, is the Gentleman saying that — just to use a round figure — if P300 billion are in the balance sheet considered as assets, that the liabilities are only P8 billion?

Senator Roco. No, Mr. President. Those are the assets.

In the liability and capital account section, Mr. President, the currency issue that is P88 billion; the deposits — banks and the Treasurer of the Philippines, and the deposits due to foreign financial institutions, the foreign currency deposits and the black peso deposit is P294 billion. The loans payable is P98 billion, the allocation of special drawing rights is P4 billion and liabilities other than the above is P98 billion. So, there is a total assets in the balance sheet of P586 billion and the total liabilities of P583 with a capital account of P2.5 billion.

Senator Maceda. To an accountant, the Gentleman have even confused me more because he is now talking about assets over P500 billion and liabilities higher than P500 billion, while the initial starting figure that we were trying to figure out is the P308 billion loss or liabilities using even the Neri monogram and I was just trying to understand when he said that some of these P308 billion are not technically losses or liabilities; some of them could also be considered as assets.

Senator Roco. It is very technical, Mr. President.

SUSPENSION OF THE SESSION

So, we will ask for a one-minute recess.

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

It was 6:27 p.m.

RESUMPTION OF THE SESSION

At 6:33 p.m., the session was resumed.

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

Senator Maceda. Mr. President, based on the explanations of Doctor Romulo and Professor Roco, this student has been made to understand that this Monetary Adjustment Account or MAA, ESAA and RIR have been placed or classified as assets for purposes of this statement of condition but in truth and in fact, in their words, they are not assets because they are *ampaw*. That is as far as I can understand.

Senator Roco. Let me try to put it this way, Mr. President, and then I will try to bring back the discussion to the theory of the Committee.

Of the 500 assets and liabilities, Mr. President, 300 of them are Suspense Accounts and they have been described by Professor Linlingan as *ampaw* assets. They really constitute the totality of the losses. Those are the losses of the Central Bank. I appreciate the desire of the Gentleman from Manila to pursue all these figures.

But just in reference to the theory and the recommendation of the Committee, the Committee has precisely recommended a delegation to the new Bangko Sentral of the responsibility to select assets and liabilities that will be carried in the new Bangko Sentral and for the new Bangko Sentral to clean up the old Central Bank.

Effectively, the principle we are recommending is a delegation of power to the Monetary Board of the Bangko Sentral to select the good assets and liabilities that they will carry.

The *ampaw* assets and the *ampaw* liabilities will remain with the old Central Bank, but we must clean it up because they are genuine liabilities.

Senator Maceda. Yes, Mr. President, I am trying to understand for this purpose. I guess, as Mr. Neri himself has said, unfortunately, what the public understands at this point is that, there are P308 billion in losses, and that what this bill seeks to do is to transfer the same to the National Government, and therefore, in theory and rightly so for the public to absorb and to pay for these losses.

Senator Roco. That is the recommendation of the House, Mr. President, because Mr. Neri, in fact, is the Congressional Economic Staff.

Senator Maceda. The Gentleman's Committee, Mr. President, has exerted effort to indicate that if sustained by the superior judgment of the Senate, what we proposed is not an assumption of all these liabilities by the National Government now through a bond issue or a promissory note. What we are saying is, let the new Bangko Sentral help clean up the books of the old Central Bank, and if they need money on a year-to-year basis, let them come to Congress.

Senator Roco. The essential difference between the approach we are recommending and the approach recommended by the House panel is very big.

In the House panel recommendation, the promissory note will mature after 25 years, but yearly, they expect to pay interest of up to P25 billion. And these are all automatically appropriated already over 25 years. But at the end of 25 years, we still have to pay; the National Government must still pay the principal amount of the promissory note of P300 million.

Whenever I press them to explain why in heaven's name should we assume, pay P25 billion a year and pay P300 billion after 25 years, they cannot answer and they say, "Anyway, we will restructure."

I even said to President Ramos, "Twenty-five years from now, you will not be around and I will not be around, and unless we write it there that it will be restructured till forever, then the Central Bank or the Bangko Sentral, which will be powerful by then, will insist in collecting from the National Government," and that is why we cannot agree.

Our recommendation, Mr. President, is fairly straightforward and simple. Every year, the Bangko Sentral will try to generate and will run its business in accordance with the market principles, and hopefully, they will make money.

Even if they make only P1 billion, for instance, on the first year, they might lack there for P20 billion to P24 billion. Let them come to Congress and explain what they have done.

By their own projections over the years, their profit margins will be bigger. So, it is one for the first year, maybe four for the second year or maybe eight for the next year. Seventy-five percent of that will go to paying the old liabilities of the old Central Bank.

Senator Maceda. Mr. President, let me immediately join the Gentleman in considering the House version as basically unacceptable because the net effect there is, first, as the Gentleman himself mentioned in the caucus, we are going to add this P35 billion or whatever it is as part of the automatically appropriated debt service that we will have to accept every year.

Second, it seems to me, and that is one of my fundamental problems with this, that in spite of the figures that the Gentleman has given me, in spite of the breakdown that was submitted to us by Senator Romulo, that the P308 billion is still at this point or whatever it is, not a very clear amount in the sense that we do not know really the circumstances that caused it; how many or how

much of it was due to behest loans; how much of it was due to the "Jobo" bills in relation to probably at that time allowing certain favored cronies to make 44 percent interest on the bills; and how much of this was due to the President or the President's men being involved in Binondo Central Bank or currency speculation on which they made a killing. But in one sweep, either with the issuance of a promissory note through the House version or by whatever the Gentleman calls the Senate version, we are now in effect accepting and validating the P308 billion or whatever it is. That, to my mind, is questionable from the viewpoint of the reasons why we are now being charged P308 billion in one way or another.

Senator Roco. Could I answer at this point? It is precisely because we do not validate, Mr. President, that our Committee has not recommended acceptance of the liabilities. And this is the beauty and the simplicity of the Committee proposal. Because the amounts are not clear, as the Gentleman has pointed out, we disagree. We do not want to issue a promissory note. We are not clear. So, let it be reviewed on a yearly basis.

Our Colleagues have always expressed interest in pursuing who borrowed, who are the creditors, who are the borrowers, et cetera. Again, the simplicity and beauty of the Committee proposal, Mr. President, is because we fossilized the old Central Bank books, subject to the control of the new Monetary Board of the Bangko Sentral. All of us, the Gentleman from Manila, the Gentleman from Quezon, the Majority Leader, those who still wish to pursue, to ascertain who were the borrowers, who made money, can still look at the books of the old Central Bank because it will take at least 12, maybe 15 years, before that is finally liquidated and abolished.

So we have time to examine all these details without hindering the birth and evolution and active operations of the new Bangko Sentral.

That is why, Mr. President, we thought of this particular, in the words of the Senator from Bulacan, "finely-crafted architecture and balance" in an effort to satisfy all the requirements precisely of our Colleagues. Those who want to pursue and find out who incurred these losses or who benefited, will go to the old Central Bank.

Senator Maceda. Mr. President, in the caucus held today, the Gentleman said, in the best way I can understand it, that the Gentleman's version is to give the new Bangko Sentral a chance with whatever authority or legal provision the Gentleman is putting it, to make money and out of that income or that money made, whatever it is, whether it is P1 billion, but the Gentleman did estimate that it is probably about P 25 billion, a year that is

if P1 billion is made as the Gentleman said, then if it is P25 billion that is needed, they can come to Congress and ask for the balance. Theoretically, we can refuse, but that is not as easy as that.

Senator Roco. May I just comment so that we can clarify concepts?

The factors, Mr. President, are not restricted to what we are talking about. There are other ways the Central Bank may make money. In fact, one of the terms I learned in the study of this bill, Mr. President, is seigniorage. I rather like the term, "seigniorage." When we print money, we actually make money on just the mere printing, because there is a difference in value from the cost of printing and the cost of operations, and the value that we, therefore, create. In simple terms, the P100 bill, the cost really may be P2.00, but we really have a seigniorage profit.

The public sector deficit also which we are trying to address can also be helped by public sector surplus. If, for instance, Mr. President, the oil production according to projections will make \$1 billion a year starting 1995, then we have a source of public sector possible surplus. That will help then the projections of the Bangko Sentral.

Mr. President, even in the economic development plan, they did not consider the restructuring. That is why although I keep saying P25 billion, as projected, there is a possibility that because of better investments, because of other sources of public sector surplus, because of better management, what they may need every year will be much less than P24 billion or P25 billion. In fact, because they are so afraid of coming to Congress, Mr. President, they will have to work their ass out to lessen the amount of money that they will ask from Congress.

Senator Maceda. Mr. President, with all the respect for the Sponsor, it seems to me that that is what we call a mirage. Because in answer to the interpellation of Senator Tañada, if I am not mistaken, and I think of Senator Ople or Senator Tolentino or Senator Romulo, the Gentleman has agreed to remove many of the traditional money-making functions of the old Central Bank. They cannot issue this anymore; there is a proposal that they cannot lend anymore; they should lend only to the National Government and all of that. That is why I told the Gentleman in the caucus that let us accept the figure of P25 billion. Let us not talk of the oil or of the public service...

Senator Roco. No.

Senator Maceda. Wait, let me finish: the public surplus.

Will the Gentleman give me an idea, let us say 10 years from now, how the new Bangko Sentral can make P25 billion a year with its very limited functions compared with the old or the existing Central Bank?

Senator Roco. Let me correct the apprehension, Mr. President, about removal of functions of the Central Bank.

In fact, what we have done is to strengthen a lot of functions of central banking. What we have removed are the fiscal agency functions which have caused, in fact, losses. And what we are saying in the totality of the bill is that to the extent possible, the Monetary Board and the Bangko Sentral should not intrude into fiscal policy because that concerns revenue, spending, and taxation, whereas they should just be concerned with control of domestic inflation and assuring stability in the value of the peso which is what we mean by price stability.

So, we never said we have removed functions. In fact, all the traditional functions of a central bank will have to be carried by the Bangko Sentral. That is the function of the bill.

In addition to that, we have strengthened their ability to indulge in the open-market operations by giving them P10 billion. If the Gentleman from Mindanao insists and it is certified by the Treasurer as available, then the P40-billion nonearning deposits of the National Government can be considered as part of the paid-up capital. So we give them flexibility in the open market operations which, I understand, is a standard Central Bank banking activity.

Senator Maceda. The Gentleman is talking about P42 billion in government deposits that are not earning interests. So, technically, they can deposit that or use that money and make some income on it. The point still is that — and that is what I am requesting the Gentleman to give me — I have no definite idea of how this new Bangko Sentral can make much more money than the old Central Bank even assuming that the old Central Bank is saddled with losses and liabilities. I am talking about the gross-income part of it.

Will the Gentleman give us examples of how they will make money, because my apprehension is, whether it is a promissory note in the House or the version of the Gentleman here, eventually, if they come to us, that will again ease out or push out basic government priorities like delivery of services or whatever it is — social, educational, economic or what not. As long as the Central Bank will need P24 billion — granting that they make P1 billion, as I said — what will happen is they will again threaten us with their standard line, "Unless you approve the budgetary request for P24 billion to service the new Bangko Sentral, the IMF will not again approve our program. The IMF will not release our next tranche for 150 pieces of silver," whatever it is.

Senator Roco. That is the value of a yearly review, Mr. President, because then, we may or may not grant the request to satisfy, precisely, the economic or social services priorities.

Senator Maceda. Yes. But that is easier said than done, Mr. President. Since Jimmy Ongpin to the present, since Jobo to

Cuisia, we have not been able to resist the impositions of the IMF. I do not think it is easy to say we can refuse if we want to refuse.

Senator Roco. It is a function of character and strength of political leadership, Mr. President. Maybe the next political leadership, maybe even President Ramos, will see things differently. In fact, as I stressed, even the economic development plan does not consider this restructuring.

Senator Maceda. What I am trying to suggest, just to emphasize the point that this is not just a flimsy point that I am trying to raise is, I would rather give them the P42 billion plus the P10 billion — that is P52 billion. Give them that but specify in the bill that they have to live or die with their income and that no way can they expect to go to Congress to ask us for additional funding. Our job in Congress is to service our budget, to service the departments. The Central Bank, being an independent authority, should live or die with its own resources and no longer have the prerogative or assurance that any time they lose any money in any casino shell game, they can run to Papa Congress again for another P308 billion after 10 years.

Senator Roco. Mr. President, that is an idea worth pursuing. I just do not know whether we have the monetary expertise to specifically decide on such a particular course of action. That is why we recommend delegation of power with guidelines because the new Monetary Board is supposed to have primary competence, jurisdiction and expertise on the matter. We shall be paying them high, although in the view of some, it is too high, and in the view of others, it is not high enough. But we will be paying them sufficiently, so that those issues are among the things they will have to address.

Senator Maceda. Mr. President, I respect the opinion of the Gentleman. I am just apprehensive, and it is a real one, that while for the moment, this will satisfy IMF, it is not really going to be the end of the problem. I think that is clear.

Every year we will hear the problem over and over again. Every year, we will have, in effect, to subsidize the Central Bank. I do not think that we can get seven miracle workers in this country to right away come out with a performance that will make this operation profitable. So I really meant what I said. It is not a facetious suggestion.

I would rather work along the line of asking them, "Okay, you need P124 billion, which corresponds to the deposits of the National Treasury, *sigé, sa inyo na iyan*. Basta you have to work with that. You have to pay for your liabilities."

But right in the law itself, it says that Congress cannot appropriate anything for Central Bank losses. Henceforth, as the Sponsor has said, that is a better guarantee, a better incentive, and a better pressure on these people — "*Kailangan magtrabaho tayo*

kasi hindi tayo puwedeng pumunta sa Congress eh," using the very same line that the Gentleman was trying to espouse earlier that they will try their best to make good.

If the Sponsor says that they cannot come to Congress, they have to make good whether they like it or not.

Senator Roco. Mr. President, that is an option worth looking into. But I cannot visualize a law that says: "No one can come to Congress." Even if we put it into law now, they can come to Congress because that is the function of a public corporation — they can come to Congress for help.

So even if we accept *in toto* the recommendation of the Gentleman, there is no conceivable humanly known procedure to prevent a public corporation from coming to Congress because we, in Congress, are paid precisely to listen to them.

Senator Maceda. I beg to disagree most respectfully, Mr. President. If it is part of an existing law that certain purposes cannot be given appropriation, then we first have to amend the law before we can grant a certain appropriation.

Senator Roco. But laws under a republic system, Mr. President, are essentially subject to amendments and modifications.

Senator Maceda. That is correct, Mr. President, but if we agree in this law now that we are going to pass that we cannot appropriate any amount for losses of the Central Bank in the future, then we are not allowed to do that, unless, of course, a formal amendment is made to this special law to amend the law.

Senator Roco. And in so doing, therefore, they come to Congress, which proves my point, Mr. President.

Senator Maceda. But that is a different situation from a situation where they are allowed to put that in the General Appropriations Act every year, and that we are just the instrumentality of the budget hearings and the budget processes to decide whether to grant the P25 billion or not. I think there is a fine, but still real distinction there, Mr. President.

Senator Roco. It is a valid policy alternative, Mr. President. The Committee just cannot see its ways clear to seeing the wisdom behind the policy proposal.

Senator Maceda. Thank you, Mr. President.

I would like to give this clipping to the Gentleman. [*The said clipping was handed to Senator Roco.*] I refer to a clipping in the *Manila Chronicle* dated Tuesday, June 1, 1993, by Prof. Alex Magno of the University of the Philippines. I am intrigued by a suggestion, to begin with, at the end when he said, "We cannot

afford this transfer of liabilities at this point. It is unjust. It is unwise. There's got to be another way."

There seems to be a suggestion here. We have been able to live with this problem for the six years of the Aquino administration and the one year of the Ramos administration, the operating budget of the government has gone up from something like P70 billion or P80 billion to P185 billion in the 1993 budget. As the Gentleman and our distinguished Colleagues recall, Mr. President, we approved a P310 billion and about a P120 billion was for debt service, and a P185 billion in the budget.

So the point is, while handling it this way, whether it is the House version on the promissory note on bonds or the Senate version which, in effect, and I think if the Gentleman will be candid enough, as sure as daylight, next year, if we pass this law, they will be coming to us for about P20 billion to P25 billion. I think that is relatively easy to predict.

Senator Roco. In fact, I keep using the example of P1 billion for the first year of operation.

Senator Maceda. No, that is their income, but we need about P25 billion to service the debt.

Senator Roco. That is correct. I have never stated it differently, Mr. President.

Senator Maceda. Yes, that is what I am saying, Mr. President, especially since they are starting they will make about P1 billion as the Gentleman suggests, next year, they will be asking us for P24 billion.

What I am suggesting is that, is it not possible to really further delay this, defer this? We have been delaying it and deferring it for about seven years. The operational budget of the government has been going up steadily; last year, I think, by about P20 billion, from P169 billion to P185 billion, but if we do this, next year we may no longer be able to increase our operational budget *dahil papasok na sa budget*.

Under the Gentleman's version, the P24 billion or P25 billion, which we need to help the Bangko Sentral service this P308 billion in losses, therefore will actually and for all practical purposes prejudice our desire long espoused by the Majority Leader, and repeatedly espoused by Senator Coseteng in terms of reducing debt service so that we will have more funds for basic essential government services. Precisely, now we are going one step forward formally validating and accepting this loss.

If we take the House version adding P35 billion, as the Gentleman said, if we take the Gentleman's version talking in terms of next year alone, they may do well in 10, 15 or 20 years

from now. Next year there will be additional appropriation requested that will be in the budget contending for limited resources and, as we have said over and over again, we probably will have no choice to approve it because it will then again be part of some IMF package or some IMF demand.

Senator Roco. Mr. President, the Central Bank losses now are paid for under the total public sector debt payments. In the appropriation, for instance, we have seen P200-billion-plus as the specific figure covered by the General Appropriations Act, because some P100 billion is covered by automatic appropriation. So it is not as though these are new expenses that will be created by the bill. What the bill, in fact, proposes is a new way of dealing with this public sector losses. We will now subject a portion of the money that is automatically appropriated to accountability and submission to Congress.

What is, in other words, being spent automatically this year, Mr. President, when this bill is approved to the extent that it is a portion of the request of the Central Bank, what was originally covered by automatic appropriations must now be subject to congressional action.

That is why, Mr. President, there is a legal advantage for those who believe or who argue against automatic appropriation. In the way the Committee has reported out the work of the new Central Bank or the Bangko Sentral, there will be an advantage. If P25 billion is the figure that the Gentleman wants to use, originally just spent under automatic appropriation clauses, it will now have to be subject to legislative control.

Senator Maceda. Mr. President, for the record, going into this column of Professor Magno:

The transfer of CB losses and liabilities to the National Government means that this staggering amount shall be serviced out of the national budget for the succeeding years. The allotments will bind the hands of future congresses, limiting their power over the public purse in the same way that current automatic debt allocations do.

By assuming the losses and liabilities of the Central Bank, the National Government shall be pushed into a very tight corner.

Going lower:

Our finance technocrats can offer only the lame excuse of "clearing the books" so that the new, more independent monetary authority could begin with a clean slate.

The phrase leaves recalls bitter memories. Shortly after it assumed office, the Aquino government, at the prompting of the IMF, "cleared the books" by way of assuming responsibilities for bad debts owned by government financing institutions.

The bad debts amounting to P147 billion were assumed by the Philippine National Bank, the Development Bank of the Philippines and the Central Bank, eventually these accounts were all transferred to the CB to save other banks from bankruptcy. A large part of these assumed obligations were "behest loans" to Marcos cronies.

Today, that decision continues to haunt us. A significant part of the CB losses proposed to be assumed by the National Government are precisely those bad debts the government financial institutions were forced to assume earlier on the strength of a political decision.

The books were cleared, no doubt. But it was an artificial solution. The problem remained while those who borrowed without inhibition during the days of dictatorship evaded responsibility.

It is not too late to change our policy tack on this.

Going down further:

The transfer of liabilities provision for the sake of "clearing the books" appears to be a conditionality of the IMF. In exchange, the IMF will lend us an average of P7 billion annually for the next five years. The amount is hardly enough to cover our interest payments due on outstanding foreign loans.

But assuming the debt will cause much larger damage on our growth prospects, the Philippines 2000 program of rapid economic growth will be reduced to mere fantasy.

We cannot afford this transfer of liabilities at this point.

Senator Roco. That is why we do not recommend it, Mr. President.

Senator Maceda. But, still, Mr. President, my point is, call it by any other name, the distinguished Sponsor's mechanism is an indirect way of accepting a transfer of liabilities.

Senator Roco. No, Mr. President. Unfortunately, the Gentleman keeps confessing that he does not understand. So, it is very difficult to disagree. What can we do?

But the fact is, under the proposal of the Committee, I think the first three or four years, it is reasonable to project that they will not be asking for P25 billion, because there are other things — we call it creative accounting. There are other set offs that they can do internally to lessen the projected expense or outflow from the National Government.

The Gentleman was saying that he was willing to bet that they will come for P25 billion. The Senate Committee is willing to bet that it will be much less than that. But that does not solve any problem.

Let me just try to correct some factual statements that may not be quite accurate. As the Gentleman would appreciate, I am one of the persons in the Chamber that has studied extensively this P147 billion, the so-called behest loan. The P147 billion was assumed already by the National Government. It is already with the National Government, and it is even separate from the Central Bank. That one, for better or for worse, was assumed by the National Government at some point in time in 1987 and 1988.

There may be foreign currency component in that P147 billion that could have been effectively assumed in the swap arrangements that could now be with the Central Bank. But the P147 billion is with the National Government and not with the Central Bank.

At this juncture, the Presiding Officer, Senator Aquino, relinquished the Chair to the Honorable Jose D. Lina, Jr.

Not that we will be happier, because it is worse than it is, in fact, with the National Government.

For the record, Mr. President, that is what happened to the P147-billion behest loan.

Senator Maceda. Mr. President, as has been asked by several interpellators and since I am the last interpellator, will the Gentleman kindly sum up for this Representation the different provisions or different ways by which this bill has established the accountability of this proposed Bangko Sentral?

Senator Roco. Yes. The first, maybe, is in the constitution of the Monetary Board. As we have stressed before, in the appointment of the Monetary Board, this will be subject to the confirmation of the Commission on Appointments. So, at the inception, as we create the Monetary Board, there will be a sense of responsibility and accountability to the Commission on Appointments.

Then the second, Mr. President, is the high degree of diligence we impose as a standard of action by the Monetary Board members.

The third is covered largely by the reporting and publications requirement under Section 37, which requires analysis of economic and financial developments, profit and loss statements, review of the state of financial system, report on abnormal movements in monetary aggregates, and remedial measures in response to such abnormal movement.

The fourth is the transparency and accountability provisions under Section 43, which requires budgetary allocation from Congress, if surplus is insufficient.

So, in summary, Mr. President, at the beginning of their life, they will be subjected to accountability with the Commission on

Appointments. During the course of their life, the members of the Monetary Board shall comply with high or extraordinary diligence because they act as fiduciary and trustees of the Republic and the people of the Philippines. The reporting requirements are stringent. That is, qualifications are also very clearly enumerated. I guess those are essentially the provisions that will hopefully make the Monetary Board and the Bangko Sentral more accountable and responsible.

Senator Maceda. Mr. President, is it not true that sometime last January, the Central Bank Governor insisted that there are certain informations that require confidentiality. While he was amenable to furnishing Congress microeconomic indicators, he did say that there was a list of what he feels CMA should withhold from Congress. Was such a list ever submitted, and is that list part of this bill, as to what CMA would be allowed to submit to Congress and what CMA would not be allowed to submit because it requires confidentiality?

Senator Roco. No. Under the provisions of the bill, Mr. President, on prohibitions, while confidentiality is given to the Monetary Board, the exceptions are orders of the court, orders of Congress or some competent government agencies. So, here, there will be no question whatsoever that if the appropriate Committee of Congress requests, then they will have to submit. In fairness, this was suggested by former Central Bank people.

Senator Maceda. Yes, because they are former Central Bank people. I wonder if any incumbent Central Bank people have the temerity to recommend those...

Senator Roco. No. The incumbent Central Bank officials were also there when this was discussed as a technical group, and there were no objections.

Senator Maceda. Let me refer, for the record, to the unfortunate Laya incident, Mr. President, where there was a kiting scam that resulted in huge losses, and vastly diminished the respectability of our financial system. Has that ever been fully resolved? Have any people been charged in connection with that kiting scam?

Senator Roco. I am not informed on the matter, Mr. President.

Senator Maceda. Could the Gentleman ask the Central Bank consultants there whether the \$1.4 billion is a correct figure as having been involved in that Laya-tenure incident, and what happened to it? Were there any investigations? Were there any prosecutions?

Senator Roco. We are told that there is no pending case involving the....

Senator Maceda. Is it true that \$1.4 billion were lost in that particular incident?

Senator Roco. Maybe, Mr. President. If the good Gentleman will allow, if we could discuss this in a separate Committee meeting of the banks so that we can delve into it.

Senator Maceda. No. The point, Mr. President, is, I just wanted to get some specifics on how that came about. And precisely, I am going to ask the Gentleman how the new provisions or how this new charter will make sure that something like that would never happen again. Or is it something that always happens subject to the lack of integrity and honesty of the Monetary Board members, no matter how much provisions we put in here to assure that they will be independent, and all of that? But if they do collude and connive among themselves, could they still come up with the same kiting scam, which was clearly a scandal during the administration of Governor Jaime Laya?

Senator Roco. Hopefully, Mr. President, the greater transparency requirements of the bill will minimize the possibility of similar occurrence. But we are willing to accept amendments and refinements so that a similar instance will not occur to the extent that we can predict it.

Senator Maceda. If the Gentleman will recall, I am now reminded that this was part of the privilege speech of Senator Romulo on March 15, and on the same day, Senator Romulo complained that he failed to accept special audit report prepared 10 years ago by SGV, and that there is a copy of this report, of course, submitted to the Central Bank. The Central Bank, up to this point in time, has refused to give us a copy of that report.

Has the Gentleman's Committee been more successful in getting a copy of this Special Audit Report by the accounting firm of Sycip, Gorres and Velayo?

Senator Roco. Yes, Mr. President, and in fact, I think, I am holding it in my hands. This was actually submitted to Senator Romulo, and a copy was furnished to the Committee and to this Representation as Committee chairman. So, we have a copy. And if requested by the Gentleman, we will give the Gentleman.

The Presiding Officer [Senator Lina]. Will Senator Maceda continue with his interpellation?

Senator Maceda. Yes, Mr. President, if we could be given 25 minutes to take dinner, then we will continue the interpellations, if the Majority Leader wants to continue after that.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1235

Senator Romulo. Mr. President, I move that we suspend consideration of Senate Bill No. 1235, the Central Bank Act.

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.

It was 8:32 p.m.

RESUMPTION OF THE SESSION

At 8:32 p.m., the session was resumed.

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

BILL ON SECOND READING

Senate Bill No. 1235 — The New Central Bank Act
(Continuation)

Senator Romulo. Mr. President, I ask that we resume consideration of Senate Bill No. 1235, the Central Bank Act. Senator Roco is on the Floor, and to continue his interpellation, Senator Maceda. I ask that they be recognized.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized, and Senator Maceda for his closing interpellation.

Senator Maceda. Mr. President. I think I have about two-and-a-half hours left of interpellation — one-and-a-half hour tonight and one hour tomorrow. But if the Body is tired, and I am already making a mistake in my voting, I can dispense with the one-and-a-half hour tonight, provided we adjourn, and I will limit myself to one hour tomorrow morning.

SUSPENSION OF THE SESSION

Senator Romulo. One-minute suspension, Mr. President.

The Presiding Officer [Senator Aquino]. The session is suspended for one minute.

It was 8:33 p.m.

RESUMPTION OF THE SESSION

At 8:36 p.m., the session was resumed.

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

Senator Romulo. Mr. President, I believe that we have moved for the resumption of consideration of Senate Bill No. 1235.

Senator Roco is on the Floor.

I ask that Senator Alvarez be recognized.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized, and Senator Alvarez for his brief interpellation.

Senator Alvarez. Yes, Mr. President.

Will the Gentleman yield for a few questions?

Senator Roco. We will be pleased, Mr. President.

Senator Alvarez. Yes. The central objective, it seems, for creating this Central Monetary Authority is to strengthen institutions that could further help along our goals for national development.

Senator Roco. That is correct, Mr. President.

Senator Alvarez. My concern here is the fact that national development is really the responsibility of the national leadership, political leadership, essentially, in a constituency like ours where the national leadership is mandated with political authority from the people. And if we are going to strengthen these institutions for national development, including a Monetary Board, including a Central Bank, these must therefore be institutions that will yield to the policy designs of the central political authority which is, in this particular case, the Executive.

Mr. President, the proposed design of the Monetary Board here would even make it far more independent than what the Central Bank already is. I am concerned that in the design for the developmental program, especially our much-vaunted declaration that we are going to create not a tiger but a lion economy in the year 2000, there will be two drivers driving perhaps not exactly at opposite directions but pulling away at different directions in the design of a developmental program, if the Monetary Authority would be completely independent of the central political authority which is the Executive. And this is the one incongruity that I find in the proposed full independence and privatization of the Monetary Board.

I would like to appreciate the intentions of this bill which enthrone completely and totally an independent Monetary Board because it detaches it from political accountability by putting it with representatives entirely from the private sector except for the Central Bank Governor. This is my one lingering misgiving over this proposal, Mr. President.

Senator Roco. Thank you, Mr. President. The complete independence from the Executive should not give rise to apprehension. In fact, at the commencement of the creation of the Monetary Board, the appointing power, pursuant to the

Constitution, must exercise the appointments. So there is the beginning relationship in the creation or in the appointment of the Monetary Board. The countervailing force will come from Congress in the ordinary course, in the Commission on Appointments. So the checks and balance visualized by the Constitution will also apply to the Monetary Board even as it is a specially created public corporation mandated by the Constitution.

The Gentleman has raised the possibility where the Central Bank may be independent even of the policy articulations of the political leadership. There is an earnest effort, Mr. President, of keeping separate the fiscal policy goals, the economic development goals, from the monetary policy goals. This is one of the clear characteristics of the bill, that the Central Bank with its independence and flexibility is concerned primarily on curbing domestic inflation and assuring price stability. By circumscribing their monetary goal, we avoid their interfering or contradicting.

In other words, the President, the Executive Department and the Finance Department may want to spend a lot of money on a certain developmental goal. It is the function of the Central Bank to make sure, however, that the liquidity does not go in excess, that the value of the peso does not erratically go up and down, so that the development goals as carried out either by the government or the private sector has a predictability in terms of the value of the peso.

Senator Alvarez. That is not the point, but we are at that. As a matter of fact, I may even be prepared to yield that the central banking system would be in the hands of the private sector. My concern here is, a private sector-controlled or dominated monetary authority where all the appointees will be from the private sector and government representatives are there. Because that diminishes the participative accountability of the Chief Executive who is responsible for the program of national development, who is accountable to the people. And the monetary policy, we must concede, is a key instrument in the development and modernization process.

Senator Roco. There is interaction between the Executive and the Bangko Sentral, Mr. President, through the NEDA-Bangko Sentral coordination. So, that one is an interfaced mechanism.

As for the concern on the origin of the members of the Monetary Board as coming from the private sector, the opposite concern, in fact, is expressed by the private sector. What they are saying is that they should not be full time because in being full time they cease to be private sector.

Fortunately, the Constitution speaks of coming from the private sector. So it is our interpretation, Mr. President, that the Constitution requires that the majority originate from the private sector and does not have to be part-time and does not have to remain with the private sector.

We will notice, Mr. President, that the concern of the good Gentleman from Isabela is precisely the other side of the concern of the private sector. They think that the moment they get appointed, they are no longer private sector and they all become public sector members of the Monetary Board. I am just showing the other side, precisely, by way of responding to the well-put point and we recognize the point, Mr. President.

Senator Alvarez. Mr. President, there are other points which need to be clarified. I wanted to put that thesis into the *Record* as a foundation for proposed amendments which I am going to recommend in due time, during the period of amendments. And because of the constraints of time, I do not want to go into an exploratory interpellation on structures at this point.

Be that as it may, because of the limited time, I think we understand the thrust for which this legislation is having, and we have our positions on this which we are going to manifest with the proposed amendments.

The Presiding Officer [Senator Aquino]. Thank you, Senator Alvarez.

Senator Roco. Thank you, Mr. President, and thank you to the Gentleman.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1235

Senator Romulo. Mr. President, with the permission of the Chairman and the Sponsor and our Colleagues, I move that we suspend consideration of Senate Bill No. 1235.

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

Senator Roco. If I may, Mr. President, with the permission of the Chair, may I just request our Colleagues who may have amendments, to have them written down because of the thickness. I have made arrangements with the Secretariat, because the typewritten official version of the Secretariat will now prevail. We will no longer use this with the single space. Everything becomes double-spaced again in the official version because it has served its purpose.

So to our Colleagues who may have amendments, please submit them as soon as possible to the extent that we find them acceptable. If the Members of the Committee can also stay — assuming we are adjourning — then we can formally go through the amendments.

Senator Romulo. Mr. President, in our session tomorrow — we shall suspend the session until ten o'clock tomorrow morning — first we shall take up the Third Reading of the Cigarette Tax bill, House Bill No. 8308. We shall also have the Senate panel

nominated and elected for the Bicameral Conference Committee for the tax bill. That should take about 15 minutes. Thereafter, we shall resume consideration of Senate Bill No. 1235, the Central Bank Act for the last interpellation to be made by Senator Maceda, then Senator Maceda's *turno en contra*. After that, we go to the amendments. So, that would be our calendar for tomorrow.

Mr. President, at this point, I ask the Secretary to read the third and fourth additional Reference of Business.

The Presiding Officer [Senator Aquino]. The Secretary will please read the additional Reference of Business.

THIRD ADDITIONAL REFERENCE OF BUSINESS

The Secretary.

MESSAGE OF THE PRESIDENT OF THE PHILIPPINES

June 2, 1993

Honorable EDGARDO J. ANGARA
President
Senate of the Philippines
Old Congress Building
Manila

— and —

Honorable JOSE C. DE VENECIA, JR.
Speaker
House of Representatives
Batasan Pambansa Complex
Quezon City

Dear Senate President Angara and Speaker de Venecia:

Pursuant to Section 26(2), Article VI of the Constitution, I hereby certify to the necessity of the immediate enactment of the Senate bill and the House bill on:

THE NEW CENTRAL BANK ACT

or the -

CENTRAL MONETARY AUTHORITY,

to meet a public emergency arising from a failure to create an independent Central Monetary Authority as mandated by the Constitution.

Best regards.

Very truly yours,

(Sgd.) FIDEL V. RAMOS

The Presiding Officer [Senator Aquino]. Referred to the Committee on Rules.

Senator Maceda. Mr. President.

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

QUESTION OF PRIVILEGE OF SENATOR MACEDA
(On the Defense Against Implication of Inaction on CMA)

Senator Maceda. Mr. President, question of personal privilege.

On the Certification, if there is an implication that the failure to create the independent Monetary Authority is due to inaction by Congress, I take exception to the same.

Apparently, there is a public emergency created by the failure to enact. So, who is supposed to enact? Congress? *Tayo pa ang pinamamadali dito, tayo pa ang sisihin sa* Certification that there is an emergency because of our failure to create an independent Monetary Authority. I really do not understand the meaning of this Certification.

The Presiding Officer [Senator Aquino]. There is no implication that the President is blaming Congress. It is just that so far, there is a failure to create an independent Central Monetary Authority as mandated by the Constitution. So he is not blaming Congress.

Senator Maceda. For that brilliant defense of the President, the Presiding Officer is entitled to be Senate President Pro Tempore.

The Presiding Officer [Senator Aquino]. Thank you.

The Majority Leader is recognized.

Senator Romulo. Fourth additional Reference of Business.

FOURTH ADDITIONAL REFERENCE OF BUSINESS

COMMUNICATION

The Secretary. Letter from Antonio T. Carpio, Chief Presidential Legal Counsel of the Office of the President, dated 1 June 1993, transmitting to the Senate a copy of the letter of His Excellency, President Fidel V. Ramos, addressed to Speaker Jose De Venecia, Jr., dated 31 March 1993, certifying for immediate enactment of House Bill No. 8308, entitled

Senator Shahani. Thank you, Mr. President.

Senator Guingona. Mr. President.

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

Senator Guingona. Mr. President, may I request that the voting for the cigarette tax bill be scheduled for this afternoon.

SUSPENSION OF THE SESSION

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

It was 10:56 a.m.

RESUMPTION OF THE SESSION

At 11:22 a.m., the session was resumed with Senator Agapito A. Aquino, presiding.

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

Senator Romulo. Mr. President, we shall have the voting on Third Reading on House Bill No. 8308, the Cigarette Tax bill, in our afternoon session.

SPECIAL ORDERS

Mr. President, before we resume consideration of the Central Bank bill, I move that Committee Report No. 159 on Proposed Resolution No. 462, entitled Resolution Urging the Senate of the Philippines to Approve, Subject to Some Amendments, the Proposed Six-Year Medium-Term Philippine Development Plan (1993-1998) which was submitted by President Fidel V. Ramos to Congress, be transferred to the Calendar for Special Orders.

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

BILL ON SECOND READING

Senate Bill No. 1235 — The New Central Bank Act
(Continuation)

Senator Romulo. Mr. President, I now move that we resume consideration of Senate Bill No. 1235, the New Central Bank Act. I ask that Senator Roco be recognized, with Senator Maceda continuing his interpellation.

The Presiding Officer [Senator Aquino]. Senators Roco and Maceda are recognized.

Senator Roco. Thank you, Mr. President.

Senator Maceda. Thank you, Mr. President.

As a preliminary premise, may I know exactly in the total of P308 billion liabilities or whatever it is or P583 billion, how much exactly is the figure being attributed to money in circulation?

Senator Roco. The currency issue, Mr. President, in terms of notes is P85 billion and coins is P3 billion, or a total of P88.3 billion.

Senator Maceda. Mr. President, we will recall the fact that in the 1986 Aquino versus Marcos campaign — and I saw this myself and it was written about by Louie Beltran and many columnists — there were a substantial number of bills with the same serial number that came out. Conclusively, to my mind, confirming what has long been suspected there had been an overprinting or unauthorized printing of notes. Does the P88.3 billion include these notes that have been overprinted by the Central Bank Printing Office?

Senator Roco. I am not sure what the Gentleman is referring to, Mr. President, but the Banks Committee studied that problem and there were three results that we could share with the Gentleman now:

1) If there was an overprinting in terms of the Bagong Lipunan notes, they have been demonetized effectively as of March 30, 1993, and all Bagong Lipunan notes, therefore, as of right now have been demonetized and if they have been overprinted, it is of no consequence as of today.

2) In terms of the so-called overprinting that were missing, they were not significant amounts, Mr. President, as we were able to trace. There were some losses, there were some charges also against personnel in the minting plant.

I think, if my memory is correct, they amounted to something like P60 million, but they have generally been retrieved.

In terms of the notes that were recirculated after having been surrendered to the regional offices, the NBI report, Mr. President, indicate... Monetarily, it was not too important, because they were genuine notes except that they were recirculated. So somebody got money for nothing because instead of destroying the notes, they recirculated it. But again, the amounts were not significant; they were fairly small amounts.

So, I do not know which one the Gentleman is referring to.

Senator Maceda. The first one, I do not know if they were Bagong Lipunan notes, but they were in fact, unauthorized as shown by the fact that they all carry the same serial number.

Of course, I was also going to refer to what the Gentleman called now the overprinting, and he called it not significant because it is only P60 million.

First of all, Mr. President, I am really not ready to concede that P60 million in an overprinting case is not significant, especially since we have no way now of knowing whether the overprinting in this particular case, whether the P60 million figure is something that could be accepted as accurate or not.

I am glad the Gentleman brought up the matter of this recycling because it has been under investigation preliminarily by the Blue Ribbon Committee. But unfortunately, we probably will not have the opportunity to finish it unless the new Chairman does go into it. This thick folder tells me that the NBI did charge six people, but that they are still pending in the Prosecutor's Office. I understand from the Blue Ribbon staff that there are probably more like 40 people involved and that after six people were charged, the remainder are still there in the — I think they call it, first, the Retirement Committee, this is retirement of currency — Cash Division, if there is such a thing, even the armored car drivers; that it is still going on — this recycling.

The point is, besides the recycling of the genuine notes, as the Gentleman says which some of them are perforated that is why they are referred to, also, as "*butas na pera*." In addition to that, there is a classification which I do not think is included in what the Gentleman referred to as the overprinting or missing or to these recirculated: there is the P1,000.00 rejects which are supposed to be burned but which were not burned.

This really causes this Representation, as well as the commercial banks a lot of concern, and I bring it up at this point again to say whether there is anything in the measure which assures us whether the new Bangko Sentral will still undertake these printing and distribution of currency. And if so, could we trust them to see to it that these things will not happen again and again?

Senator Roco. Again, Mr. President, no law can assure trustworthy behavior. So, as far as the printing is concerned, presumably, until the Monetary Board or the Bangko Sentral Ng Pilipinas decides otherwise, they will continue. We have suggested as a policy matter that the minting plant should be privatized. And at a certain point in time, if in the best judgment of the Monetary Board that gets to be done, then they will no longer be responsible for the physical printing or minting of the money. But until then, the Charter of the minting plant and the Charter of the Central Bank will continue.

Senator Maceda. So, in the Gentleman's proposed bill, Mr. President, the minting operations will stay with the old Central Bank or will go to the new Bangko Sentral?

Senator Roco. In the recommendation, Mr. President, the selected assets, the assets and liabilities will be selected by the new Bangko Sentral. If I were there, I would transfer it also to the Bangko Sentral or privatize it. But there may be no need to specifically state that in the bill unless the Gentleman wishes to do so.

Senator Maceda. So, at the moment, there is no reference of it to the bill?

Senator Roco. The minting plant, Mr. President, has a separate Charter. Right now it is under the supervision of one of the Deputy Governors and so, in the reorganization, that will be subject to the Transitory Provision.

Senator Maceda. Mr. President, another matter that is being looked into by the Blue Ribbon Committee is the matter of what we can call the Kuwaiti Dinars Operation. Did the Committee on Banks look into this matter? The representation is that the Central Bank pegged the amount that the returning overseas contract workers from Kuwaiti could sell to the Central Bank and yet some Central Bank people bought all the excess over the limit or quota per worker and eventually, a lot of CB people made a lot of money in that operation.

Senator Roco. No, Mr. President, we have not looked into them because they are operational details from day to day of central banking and it would have been impossible and unnecessary to look at all these day-to-day operations. In fact, it does raise the question since the question was premised on what the Blue Ribbon Committee has done. It does raise the question of jurisdiction of the Blue Ribbon Committee. If at all it will continue to exist, it should coordinate with the other committees in their various jurisdictions. But there could be some good reason for stopping the operations of the Blue Ribbon Committee.

Senator Maceda. That is for the majority to decide. As we know, what happens here is that the charter of the Blue Ribbon Committee says it can investigate any matter of public interest, and besides, those that are referred to the Committee formally on the Floor.

We do probably receive literally thousands of complaints from the public, and before we act on it, we may even refer it to the Committee on Banks. We do go through a screening procedure where members of our staff, subject to time and resource limitations, do try to find out whether there is some sort of a prima facie case on a matter that is brought to us. So that is how that is being handled.

The only point is as to whether matters such as those will continue to be handled by the old Central Bank or it will be taken over by the new Bangko Sentral.

Senator Roco. Under Section 68, Mr. President, in terms of acquisition of inconvertible currencies and other currencies, the Bangko Sentral shall handle it. But all operations on matters of central banking will, of course, be handled by the Bangko Sentral.

Senator Maceda. I accept that general statement, Mr. President. I am just trying to test it or to understand it in terms of actual cases which would be easier for me to understand.

So the next actual case is, there is a big controversy now as to the implementation of a Supreme Court decision in the matter of the reopening of the Banco Filipino. In that particular case again, is that going to remain with the old Central Bank or will it now also be taken over by the new Bangko Sentral?

Senator Roco. The supervision of all banks shall be with the Bangko Sentral. In terms of the decision of the Supreme Court as regards Banco Filipino, there was a conscious decision on the part of the Committee not to utilize the law or the bill to modify the Supreme Court decision. We shall honor the Supreme Court decision, and it says so.

Senator Maceda. We are not suggesting that, Mr. President, I am just clarifying. These are well-publicized issues, and these are the issues that people know about, and just for the record, I wanted to bring it up.

The next case at bar is also the allegation of our mutual friend, Congresswoman Baby Puyat Reyes, about the unfair decision attributed to Gov. Jobo Fernandez to, in effect, close down Manila Bank, and which, according to our mutual friend, Congresswoman Baby Puyat Reyes, is actually one of the reasons that killed her brother Vicente "Ting" Puyat. And if that is true, I was wondering whether there is any provision in the new Bangko Sentral law which will assure that this new Bangko Sentral will not be used again — accepting that this Representation is correct — as a possibility whether it could be used by the incumbent officials of the new Bangko Sentral to inflict personal vengeance — if that is the right word — on an existing bank or on an existing officer of a bank.

Senator Roco. Mr. President, in some of the bills submitted, there were sections which a lawyer could have construed to forgive or to prescribe certain offenses that may have happened before the passage of this law.

They were consciously deleted by the Committee, and there was a conscious effort to preserve whatever culpabilities or liabilities that may have occurred in the past. So, the fear of losing accountability because of the passage of the law to the extent the Committee could spot it, Mr. President, has been removed.

As a direct answer to the question, is there something in the bill that could prevent a Member of the Monetary Board from

effectively oppressing, let us say, the Manila Bank people? There is nothing in the bill because the bill does not allow abuse. But if some Monetary Board member, in the future, does abuse, well, it is prohibited by the bill and he will be accountable, both criminally and maybe civilly.

We cannot prevent by law an abuse by officials, Mr. President. In fact, they are the ones we are trying to disallow in passing all these laws.

Senator Maceda. Mr. President, we of course do not differ with that opinion and so we leave it at that. There has been a continuous claim by Vic Tan that he has been unjustly deprived of Continental Bank alias Interbank at present. I guess you are very well acquainted with that case. Meaning to say, he claims that the President, through General Ver, had in effect compelled him to sign over his ownership of the bank during the martial law days. And now he has been trying to get it back.

How would a case like that be treated by the new Bangko Sentral?

Senator Roco. That is slightly difficult. I am not trying to avoid the question. It can be treated in any number of ways, Mr. President. But that will principally depend upon the lawyers of the parties, on what they are seeking for. I am not altogether in command of all the factual situation of the Interbank. I mean the different parties have all talked to various Senators. They have also talked to me.

For instance, if we begin with the takeover, technically under this bill, there can be a takeover either through a liquidator or a receiver. But if there is abuse of discretion of the Monetary Board, again, under this bill, the Monetary Board can be stopped or can be restrained by the appropriate court action but the stockholder must act within a certain period of days. So, the stockholder is given access to remedies available in court, if that is what the Gentleman is seeking for, Mr. President.

Senator Maceda. Just incidentally, Mr. President, since the Gentleman raised an earlier question of jurisdiction of the Blue Ribbon Committee, a matter of the Interbank case was investigated by the Committee on Government Corporations headed by the *de facto* Senate President Pro Tempore, the Presiding Officer.

Senator Roco. And if we may say so — rather well.

Senator Maceda. Yes. So, I really do not know whether that should have been investigated by the government Corporations Committee or it should have been left to the Committee on Banks.

Senator Roco. Thank you, Mr. President.

Senator Maceda. Was the investigation of the government Corporations Committee of the Interbank case with the permission of the distinguished Chairman of the Committee on Banks? To say the least, it should have been a joint investigation.

Senator Roco. We are not too sensitive about these matters, Mr. President, and we are comfortable with the competence and objectivity of the Chairman.

Senator Maceda. Yes, and the Gentleman was not comfortable with the competence of the Blue Ribbon Committee that is why the Gentleman raised it earlier as a point?

Senator Roco. No, no. In fact, there was over-competence in the case of the Blue Ribbon.

Senator Maceda. Mr. President, what is going to be the treatment under the new Bangko Sentral of a case like the Associated Bank? My impression is that the old owner of the Associated Bank has continuously been able to frustrate — this is a different case altogether — even Gov. Jobo Fernandez and the Central Bank up to this point from disposing of the Associated Bank?

Senator Roco. Again, Mr. President, I must declare a parliamentary bias. I am familiar with Associated Bank's situation at the beginning. I was not active in the handling of that matter, but at the very beginning, the original family owners were very good clients of this Representation until I became elected to public office. I have, therefore, attributed knowledge that is not available to all. Having declared that, Mr. President, which is all that is required of us by the Constitution, let me now answer.

In the situation of the Associated Bank — and this should be taken with a degree of caution — the Associated Bank could go to court, could question the abuse of discretion or whimsicality, not only of the Central Bank, but maybe of the DBP. How the court would have resolved it even under this bill, I cannot foretell. But there would be available legal remedies.

If the Associated Bank also is able to demonstrate capacity and, maybe, liquidity and ability to resume operations, I would imagine, Mr. President, that could be the subject of negotiations by the Central Bank and the Associated Bank.

Senator Maceda. I just wanted to say for the record that one of my shortest but most interesting stints in government because it is probably about the only stint I have in banking is that, I did serve as Chairman of Associated Bank during the early years of the Aquino administration, representing the DBP.

So, I can say with some accuracy that I have been a Chairman of a commercial bank, although it was only the Associated Bank, so to speak.

Senator Roco. I guess, Mr. President, the declaration of parliamentary bias is mutual.

Senator Maceda. I guess my last point is, because I know that the Gentleman is in a hurry to wrap this up, although I still believe that so many questions that should be asked has not been asked.

Following up the interpellation of the distinguished Minority Leader, Mr. President, whether it is the Associated Bank or whether it is the Manila Bank case or whether it is GemBank, for that matter, I am one of those who believe that this problem of DOSRI loans, has led to the downfall of some banks and has unfairly crowded out other borrowers that should be serviced.

So, I have filed a bill, going exactly to the other extreme. I do not see, Mr. President, why or what are the disadvantages that could not be absorbed.

If we adopted a provision that contain an absolute prohibition to Directors of a bank from borrowing from their own bank — after all, the banking community is so small. If one is a Director of Far East Bank, I see no reason why he cannot apply for a loan with RCBC and he will be given probably all the courtesies and all the leeway to borrow from RCBC and vice versa.

I am just immediately going straight to the point that if we prohibit those reloans altogether, it would not really prejudice the so-called Directors of banks, because if they need something for their own business, they could apply with some banking courtesy to other banks.

So, would the Gentleman, in the period of amendments, consider expanding the matter that the Minority Leader has brought up, that we try looking at a possible complete prohibition? Let us try that for a change — prohibiting Directors of banks from borrowing from their own bank.

Senator Roco. Mr. President, in principle, we have no resistance to the idea. May I prevail upon the Gentleman to suggest it or that we incorporate this bill when we consider the General Banking Act, because the DOSRI's and the DOSRAS's prohibitions will be there.

The DOSRI reference here, Mr. President, only requires a waiver of the bank secrecy protection in case a bank officer, director or stockholder is caught violating the DOSRI rule. To put it here and transfer it from the General Banking Act, just in terms of craftsmanship is likely difficult, but we accept the idea just in terms of the policy discussion on the matter. So long as we do not have an anti-trust law that prohibits the merger of banking and commercial activities, it is an instrument of business enterprise, sometimes, to consider the utilization of a bank. It may be a good

policy to consider, however, a separation between the money men and the commercial or manufacturer or industry men.

Some of our business corporations, Mr. President, consciously adopt the policy of keeping separate and away from banking or money activity. But others, Mr. President, believe that they can have synergy, that they can maximize profit by having both banks and commercial activities.

So, it is that policy discussion that must be addressed when we get to the total prohibition of DOSRI. Because it is so easy to circumvent — as the Gentleman has pointed out, he is a director of BPI, he will not borrow ever from BPI but he can start borrowing from Prudential or whatever. Therefore, the ramifications of the proposed policy, Mr. President, should be thoroughly studied. And while I do not resist the idea and I welcome it, I would request the Gentleman to suggest it with the General Banking Act review.

Senator Maceda. Mr. President, that parliamentarily may be allowable and correct but, I think, realistically it will take us sometime before we can pass a General Banking Act. Why waste this opportunity if the Gentleman agrees with this or any other policy to incorporate it in this bill?

For example, Mr. President, I believe that in connection with the Gentleman's membership of the Monetary Board, he might consider a total prohibition with regard to certain seats or all seats from anybody from the private sector to be a member of the Monetary Board and vice versa. That is something also that could be taken up in the General Banking Act, but if it is relevant and germane to this bill, it should be taken up right here.

Senator Roco. Mr. President, the reason why we are trying to persuade the Gentleman to help us in the General Banking Act later on, if we are still in the Committee, is the basic theory of the proposed New Central Bank Act.

The basic theory is precisely to delegate power and to give legislative standards for the exercise of that power. Therefore, we would rather prefer to look at the new Monetary Board unfettered, unencumbered, in the words of Senator Romulo, independent as allowed by the Constitution. We look to them for best judgment for monetary policy.

We have refrained and resisted the temptation, Mr. President, of introducing our own personal or committee biases on monetary policy into the law. For instance, Mr. President, we always thought that it was a good idea to lower reserves from 25 to 10, and put it in the Central Bank Act. But we have been prevailed upon by better counsel and, I think, it is a prudent advice that we resist that because, maybe, we do not want to fossilize that particular Monetary Board judgment into the law.

For the same reason, Mr. President, that is why we really seek, persuade the Gentleman to do that together with the General Banking Act.

Senator Maceda. I do not know about reserves, but let me use another example.

If the Gentleman listens to almost everybody who has anything to say about banking, the main complaint is, compared to other countries of the world, even Asian neighbors, the so-called spread is quite big, sometimes reaching as much as 6 percent while they say that there are countries where it is as low as one half of 1 percent.

Now the Gentleman would say maybe we should put in the General Banking Act. But I see no reason why. Certainly, if we could devise a provision here which would limit the discretion of the Bangko Sentral as to the amount of spread that it will authorize, I think we can do that now. So I ask specifically the question: What is in this bill now with regard to the power of the Bangko Sentral to authorize or to limit the spread of the banks which, according to people, is causing or allowing them to make so much profit at the expense of other sectors of business and industry; also, at the expense of not encouraging savings because in their effort to keep such a big spread, when we save, they give such a low rate and when we borrow, they charge such a high rate?

Could we not put something in this measure to see to it that that problem is solved or remedied to a certain extent, at least?

Senator Roco. We can, Mr. President, as a matter of power. But again, I go back to the basic theory of the bill.

The Committee understands the constitutional mandate as being very clear. The Monetary Board or the Central Bank is the one that should exercise and inform primary competent judgment on monetary policy issues. The example, illustration and demonstration of the Gentleman is one such issue. We feel, Mr. President, that it is more prudent to adhere to the mandate of the Constitution. Let the Monetary Board or the new Bangko Sentral make that competent judgment. In the absence of a new Central Monetary Authority or a new Central Bank, let the old Central Bank exercise that judgment for the simple reason that the Constitution say so.

Senator Maceda. Mr. President, just to abbreviate the proceedings. We have talked about DOSRI, we have talked about reserves which the Gentleman brought up, I talked about the spread problem. May I know what similar items or issues the Gentleman considered in his Committee studies, what the Gentleman has decided should be in this new Bangko Sentral bill, and what the Gentleman has decided should be left out or should

be considered in the General Banking Act bill other than DOSRI, the matter of dealing with reserves, and the matter of dealing with the spread of the profits of banks?

Senator Roco. As we explained in the beginning, Mr. President, we were guided by the Central Bank law as it exists. In fact, all the bills were guided by the Central Bank law. The reference points, therefore, of the different sections arise really from the Central Bank law. That was the basic policy that we followed. There is nothing that should prevent us from combining certain sections of the General Banking Act into the Central Bank law. Again, as a matter of craftsmanship and just for ordered thinking as a lawyer, it was simpler for this Representation, at least, to look at one law at a time. Maybe it is human limitation, but the policy was to be guided basically by Republic Act No. 265.

Senator Maceda. Mr. President, I do not know if the Chair has noticed it but I have been wiping my forehead and my collar every five minutes. I am sweating like anything else and because of which it seems to me I get hungry faster under these conditions. I am telling him the truth.

The Minority Leader says that he has a few questions to ask. I would now yield the Floor to him and go to Room 410 which is cooler, for a quick bite, and then come back and ask probably about four or five questions. If that arrangement is agreeable, I would just like to yield the Floor to the Minority Leader with a reservation to ask no more than five additional questions after that.

The Presiding Officer [Senator Aquino]. That is accepted. I have in my list Senator Coseteng, but if Senator Tañada wants to ask the question first... Well, ladies first. Senator Coseteng is recognized.

Senator Coseteng. Thank you, Mr. President. I just want to ask a few questions of the Sponsor of the bill, if he may please.

Senator Roco. Yes, we will be very happy to answer whatever questions there are.

Senator Coseteng. In the case of the opening or the establishment of bank branches, for example, Mr. President, there seems to be an existing ruling that these branches must be awarded or distributed to the highest bidders.

However, in the past, as in the case of the Far East Bank & Trust Co., it seems like it was such a quick procedure that they took over all the existing branches of Pacific Bank. It may seem like an innocent action today, several years or decades later, but at that time, it seemed like this kind of an action could only have been undertaken because of the influence of the Central Bank

Governor and the connection of the Governor with the beneficiary bank.

I wonder if this situation could be repeated under the new CMA and what are the safeguards so that banks cannot take undue advantage due to the connections or to the interest of the officials of the CMA with existing banks?

Senator Roco. If the Lady's statements could be borne out and supported by competent evidence, then there seems to be an anti-graft violation on the part of the former Governor, and I would imagine with the *modicum* of competence on the part of some lawyers, he should be able to secure conviction.

The anti-graft law is not sought to be amended by the present proposed bill, Mr. President, and so the same prohibitions that were violated under the statement of facts of the Lady will still apply.

Senator Coseteng. Yes, Mr. President, I am bringing this up as an example because traditionally bankers are not very vocal about their objections, about one another, or about other violations of their colleagues, and in many occasions, complaints are expressed only in very small circles or in a hush-hush fashion. However, it cannot be denied that conflict of interest has been one of the issues raised. Perhaps the new CMA can address this by putting in certain qualifications or other measures that could prevent these things from happening.

Senator Roco. There are very strong prohibitions against guarding, against conflict of interest, Mr. President, and so we are happy that there is one other support for such very stringent conflict-of-interest rules.

Senator Coseteng. Mr. President, the new CMA is also being presented as an entity that will not be assuming the losses or the liabilities of the old Central Bank, and we have seen that the people, the general public, are also apprehensive since these gargantuan figures as in the P308 billion losses, seem to be too much for the average citizen or even for this Representation to understand. Since the Central Bank is the entity that is printing the money, that issues licenses to banks to operate or that issues closure orders et cetera, it is quite difficult to grasp this kind of a gargantuan loss, and, of course, this has not been adequately explained in the discussions and in the interpellations on the Floor.

However, the provision in the new CMA bill also provides that 75 percent of the earnings of the CMA will go to the old Central Bank to pay for these losses, and should this 75 percent be inadequate, then Congress will again be asked to appropriate the necessary funds to fulfill this condition. This being the situation,

even if the CMA is not made to assume or is burdened directly, this operation will, in effect, make the CMA still liable for these losses, and the bottom line is the CMA or the people themselves will have to assume these losses.

The question, Mr. President, is: Should the Central Bank not simply declare itself bankrupt or to declare insolvency so that any new money generated by the CMA will be used to strengthen our present economic stakes and serve as our future economic buffer stock? Additional congressional appropriations could then be used to fund projects for education, health, agriculture, et cetera, and support that could go to local government units for them to be able to fully implement the mandate of the new Local Government Code.

I am expressing this apprehension and this fear, Mr. President, because the time will come when the more the CMA makes, the bigger the percentage that will go to paying for these CB losses. So, how could we reconcile this, Mr. President?

Senator Roco, There is really nothing to reconcile, Mr. President.

On the first point of 75 percent, the Majority Leader has already requested an amendment, maybe that can be down to 50 percent, so that in the retirement of the liabilities and losses of the old Central Bank, there will be an effective delay. There is no problem in principle with that, Mr. President. I think the Monetary Board will just have to plan some more.

In the statement of the Lady that effectively we are now already burdening the Bangko Sentral as proposed and that the people will be paying in the ordinary course, the Congress can always say no. The mere fact that they ask for appropriation does not mean that they will get it and so there is at least a control mechanism of congressional judgment.

On the bankruptcy, Mr. President, the distinguished Gentleman from Manila has also suggested a course of action. As a legal proposition, I was, in fact, among the very first a long time ago — I do not even remember when — who suggested a bankruptcy proceeding filed under New York Law or some other appropriate forum.

Mr. President, as policymakers we may want to look at that in the total context of what it will do to the reputation of the Philippine financial system, and there may be good argument and cogent reasons for looking at other alternative remedies other than bankruptcy.

So those are the three points I was able to glean and record from the statements of the Lady. I hope it helps in responding to the queries.

Senator Coseteng. Finally, Mr. President, I am glad to note that the Sponsor of the bill has hope and confidence in the kind of decision that Congress would eventually make in the event that it is asked for this additional appropriation to be able to shoulder these old CB losses. However, based on experience, we have seen that Congress has traditionally acceded to the sentiments of Malacañang, and we will have to take into account that the selection of the members of the Monetary Board are, to a great extent, dependent on the decision of Malacañang. This being the situation, and considering that it is so difficult to get Congress, even at the moment, to impose a debt cap or pass a debt cap bill or to be able to reduce loan payments, would this provision be sufficient in safeguarding the people's interest? And by people's interest, we mean that this backlog of services, the backlog of infrastructure projects and the present socio-economic conditions that deserve all the attention and deserve maximum resources from government would have to be addressed first.

Since this is part and parcel of the operational provision that 75 percent of the new CMA's earnings will go to the payment of the Central Bank losses, this is going to be directly in conflict with my sentiments. The people's interest or the people's needs should be addressed first and foremost over that of covering up for the failures, perhaps, the incompetence or whatever it is that we can attribute to the former Central Bank officials who have caused this kind of bankruptcy.

Senator Roco. Far be it from me, Mr. President, to protect and defend Malacañang. We do seem to belong to different parties. But in fairness, there is very little we can do about the distribution of power, as mandated by the Constitution. Executive power rests on the Executive. And for better or for worse, under the present times, the Legislature seems well-advised to cooperate and seek the same economic goals as the Executive.

Things are bad, Mr. President, but it could be worse if the Executive and the Legislative start violently disagreeing and having great debates that are good for... when one listens to it but do not bear very productive fruit.

So, having said that, Mr. President, let me address the conflict with people's interest. Well, the Committee is, precisely, giving guidelines to the Monetary Board so that the people's interest will be best served.

So, we hope the 75 percent can be amended; we are willing to concede to 50 percent. And if the Lady has further refinements that will help, the Committee will be very happy to consider them, Mr. President.

Senator Coseteng. Mr. President, the Central Bank officials have shown in many ways their resentment of congressional inquiries and investigations of their actions, of the decisions that

they have taken, especially when it comes to the debt issue. However, it is also very evident that although they resent this kind of interference or interrogation or *pakikialam* from Congress, it seems like they do not manifest any kind of resistance to the *pakikialam* or the influence or impositions from the IMF-World Bank.

So, is there any guarantee or are we going to be given some kind of security, mental security, that the new CMA could perhaps be indeed as independent as it would like to be rather than always professing, for example, or making the pronouncements that they would like to be independent from Congress, independent from Malacañang, independent from everything else? But actions have shown that they have hardly been independent from the IMF-World Bank.

Senator Roco. In fact, Mr. President, the Committee Report prevents independence from the people or independence from Congress.

As for independent judgment, Mr. President, that is a function of character and no law can give a backbone to those whose backbones are the equivalent of a banana.

Senator Coseteng. Thank you, Mr. President. Thank you, distinguished Sponsor.

The Presiding Officer [Senator Aquino]. It is now lunchtime.

Would Senator Tañada like to pursue or would he like to....?

Senator Tañada. Mr. President, the Gentleman from Bicol has been on his feet for over an hour now.

Senator Roco. I know the gallantry of the Gentleman, Mr. President. But in terms of time constraints, I personally would prefer to finish the interpellations so that then *Turno En Contra* can commence at three o'clock.

We do have time constraints only in physically preparing the amendments because of the thickness of the report. But, otherwise, the Secretariat has been working at it even last night. So, the first draft of all the amendments is in, except for those that were just given to me.

So, given a timetable, Mr. President, where we can accept amendments by five, and if the Majority Leader could arrange for a Conference Committee at six or sometime in the evening, it is my sense that the main Body is very similar. The substantial text of the law per se is very similar between the House and the Senate, so that should be easy.

It is in the treatment of assets and liabilities where there may be differences that may require some negotiations.

If the Gentleman is good enough to continue, then I will be very happy to answer questions, Mr. President.

Senator Tañada. In that case, Mr. President, I am ready to proceed with my final interpellation.

Under Section 46 of the bill, the Chairman of the Commission on Audit is designated as the Bangko Sentral's ex officio auditor. As such, the Chairman of the Commission on Audit is empowered and authorized to appoint a representative who shall be the auditor of the Bangko Sentral. In accordance with law, the Chairman of the Commission on Audit is authorized to fix his salary and to appoint and fix the salaries of a number of personnel who will assist said representative in his work, but in all cases — this is what is provided in the measure — subject to the approval of the Monetary Board.

I would like to ask, Mr. President, if the Monetary Board really has to approve the decisions of the Commission on Audit.

Senator Roco. Yes. I appreciate the point, Mr. President, and it is very well-taken. This should not have escaped me, but I am glad that it has been called to our attention. Unless there is some other reason for this, then we will welcome a proposed amendment.

Senator Tañada. Thank you, Mr. President.

Moving on to the next point. Under Section 123, Bangko Sentral is being prohibited from engaging in development banking or financing. May we be enlightened as to what would be the meaning of development banking or financing under this measure? May we, likewise, know from the Sponsor the rationale behind this prohibition?

Senator Roco. This is my understanding, Mr. President, and it is subject to better explanation from the technical people. My understanding is that one of the basic differences in approach between development banking and commercial banking is that, while commercial banking is seeking to maximize profits, development banking subordinates the profit motive to social goals. That is why we created the Development Bank of the Philippines and that is why the Development Bank of the Philippines pushes projects that initiate industrialization or similar commercial or manufacturing activity that has social, political or developmental goal.

The commercial banks, for instance, despite the law on *agri-agra*, do not lend to the countryside because they find it too risky

at very little profit. Therefore, they prefer to take alternative measures of complying with that duty. The development bankers must go to the countryside. Whether it is through the rural banking system or through some other avenue of conduiting money to the network in the provinces, we leave it to their judgment.

The reason for dissuading or prohibiting the Central Bank, which has the capacity to print money, and we prohibit them to go into development banking is that when we mandate that they should seek social goals and not be concerned with the market factors or free market operations, it could be very easy to print money. So that, let us say, Bicol be given enough money to prime all its activities, in which case, that will contradict the objective of price stability will ensure domestic inflation.

Basically, Mr. President, it is similar to avoiding fiscal functions. We make them focus on, "Make sure our money is valuable." How they will develop in Bicol, let the Bicolanos develop by themselves, with the assistance and with the help of the business community, the entrepreneurs and the government.

Senator Tañada. So, it would seem the distinguished Sponsor is convinced that engaging in development banking for CMA would be bad for CMA.

Senator Roco. Yes. Let the Development Bank of the Philippines do that, Mr. President.

Senator Tañada. And I suppose one of the reasons really for this prohibition is the experience that we had under the present law, the Central Bank Act, and the manner that was implemented by the previous members of the Monetary Board. We saw that this led to a lot of abuses and mismanagement on the part of the previous Monetary Board.

Senator Roco. If the Gentleman will allow me, Mr. President, so that the records will bear it out, I have here a note passed on and it should be put on record: "The lending operations of the Bangko Sentral is primarily aimed at controlling monetary growth in line with its principal objective of maintaining price stability." And why the development bankers? Let them be pioneering; let them experiment and take the risk. But we do not want the central bankers to be figuring out what risky projects in Catanduanes they would want to enter into.

Senator Tañada. I support the prohibition on development banking that is being provided under the bill. I, however, note that under Section 123, Mr. President, there are exceptions provided. Specifically, it provides that the restriction shall not apply in cases where, pursuant to the terms of agreement with international and regional inter-governmental financial organizations, Bangko Sentral is designated as the conduit for development loan funds,

and that outstanding loans obtained or extended for development financing shall not be affected by the prohibition. As far as outstanding loans are concerned, I can understand why they are being made an exception.

However, as to the exception pertaining to future loan facilities, Mr. President, I am not too clear on that. And so, perhaps, the distinguished Sponsor could enlighten us on this point.

Senator Roco. Yes. Maybe, Mr. President, we would invite the attention of the Gentleman to the operative phrase: the Bangko Sentral is designated as the conduit of development loan funds. In other words, it is somebody else's money. It is not as though the Central Bank would generate money for these particular activities. If, presumably, the ASEAN, let us say, some ASEAN body is looking for a conduit for their funds, and, for one reason or the other, they want to course it through the Central Bank as presumably the most stable and the most reliable financial institution in the country, then we may not want to close the door to that. But the Central Bank or the Bangko Sentral will not be at risk. It is OP; it is other people's money and we may want to welcome them, making Bangko Sentral as a conduit.

Senator Tañada. I can appreciate the point the distinguished Sponsor has made, but I am concerned, Mr. President, that with this exception, we may be rendering the prohibition, in effect, ineffective and ineffectual.

I understand that the Central Bank usually undertakes such development financing through own-lending programs sponsored by multilateral and bilateral financial institutions. The way I see it, Mr. President, international financing institutions would certainly find it to their interest that the CMA be the conduit for developmental financing to the private sector. By coursing their funds through the CMA, these financing institutions would have some sort of a guarantee considering that the CMA would be the one liable to them.

CMA, in case of any failure of the project or the program, would be the one to pay the foreign loan. The problem, therefore, is that it will be the CMA that will shoulder the financial risk vis-a-vis the private sector borrowers. So, if the private corporations default on their loans, then CMA would be the one to pay. CMA would be holding what could be an empty bag.

So, considering our experience with respect to these matters, particularly on the matter of cronyism, lending programs by international institutions intended for the private sector, I submit, should instead be administered by governmental financial institutions like the PNB, the DBP, the SSS or GSIS, but not the CMA. Otherwise, we could end up again with a bankrupt Central Bank.

Senator Roco. The point is very well-taken, Mr. President. The Committee is amenable to deleting the first proviso.

Senator Tañada. So, we will propose the amendment when the period of amendments comes, Mr. President.

Senator Roco. If the Gentleman is willing, we can even propose it at the Committee amendments stage, with appropriate recognition of the point of the Gentleman.

Senator Tañada. Yes, Mr. President, I would be amenable to that.

May I move on to my last point, and again this is just for further clarification. In case we are asked by our constituents these questions: Has there been any transfer of losses to the National Government under this measure; will there be a transfer of liabilities and losses to the National Government under this measure; what can we give as our answer to that question, Mr. President?

Senator Roco. To be very candid, Mr. President, the first answer is, under this bill, there is no such transfer. It will be, of course, a judgment call of the new Monetary Board. The new Monetary Board therefore, after negotiating with the Secretary of Finance between them, may decide in their best business judgment that the National Government absorb specific liabilities. That is up to them. They are both performing their duty in the best way possible and, presumably, they are both armed and protecting the interest of the Central Bank in the case of the Governor, and the interest of the Republic in the case of the Secretary of Finance.

So the specific answer is no. There is nothing in this bill that, in fact, specifically, transfers liabilities to the National Government.

Having said that, again, in the interest of candor, Mr. President, in terms of the total public sector deficit, they are all part of the total public sector deficit. In other words, whether paid for by the Bangko Sentral or by the old Central Bank or by the Secretary of Finance, in terms of the public sector deficit, they are all considered. But in terms of liabilities, in terms of specific duty for taxpayer so and so to pay for that, they are different.

So, in total candor, that is the situation, Mr. President.

Senator Tañada. What could provide some misunderstanding, Mr. President, is that provision in the bill, Section 127, which provides for the transfer of assets and liabilities to the new Bangko Sentral. Under this section, as to the matter of liabilities, some would be transferred to the new Bangko Sentral, while some would be retained by the old Central Bank.

As I understand it, it would be the new Monetary Board that will make the decision as to which liabilities will be transferred to the Bangko Sentral and which liabilities would be retained by the Central Bank. I think that is a correct reading of Section 127.

Further, Mr. President, under paragraph (d) of Section 127, the new Bangko Sentral is required to financially assist the Central Bank in the liquidation of its liabilities.

It states there that the Bangko Sentral shall remit 75 percent of its net profits to the old Central Bank until such time when the latter's net liabilities are fully liquidated.

Further, it states that in the event that on a year-to-year basis the Bangko Sentral shall not have enough to remit to the old Central Bank, then the Bangko Sentral can go to Congress to ask for an appropriation in such amount as may be necessary to settle the Central Bank's obligation.

Because of these provisions, Mr. President, it would appear that the door has not really been closed, as far as the transfer of the Central Bank losses to the National Government is concerned.

In other words, it would seem clear that the National Government will eventually end up paying for the losses.

Senator Roco. It is, again, a very good point, Mr. President, and we share the view.

In fact, I was discussing with the technical staff that, maybe, to avoid misinterpretation, we should alter and we will seek the help of the Gentleman here of the phrase "fully liquidated". Some standard like "until it is within the range of normal Central Bank operations." After all, there is no Central Bank in the world that has no liabilities. And there must be some economic norm for a range where the liabilities are within the normal operational capacity of the Bangko Sentral, at which point in time, we give the Monetary Board here the option to desist from any further payment of these liabilities. Or if the Gentleman has another standard, then we will welcome the proposal.

Senator Tañada. Yes, Mr. President.

Would it be possible that some of the liabilities that could be transferred to the Bangko Sentral would include part if not all of the foreign indebtedness of the Central Bank?

Senator Roco. That is possible. Under the terms of the bill, it is possible. If the Gentleman will recall what we tried to explain before, when they identify the working assets and liabilities, like currencies that must be brought into the Bangko Sentral — because we have P122 billion in liabilities on the currencies —

some assets must go together with that. Which particular asset they will select, it is really very complex to determine.

In just a reference to the Gentleman's question, yes, it is possible that they may select that.

Senator Tañada. My concern then, Mr. President, is that part of these foreign debts that could be transferred could include those debts which we could consider tainted with fraud. And so, that is going to be a very real problem for all of us.

Mr. President, I would like to state that I was surprised to learn that the Central Bank had, in fact, been making its own debt-servicing independent of Congress. All the while, we were thinking and we were being told that the debt service for our domestic debts were twice those meant for foreign debts and that all of these were clearly reflected in our national budget. Now, we know better and we found out that the Central Bank had been making its own debt-servicing independent of Congress. And so, my concern is that this may, again, take place.

Senator Roco. We will work out with the Gentleman if this is possible because I am equally concerned. In fact, that \$30 billion that we owe is not all just NG. As I understand it, there is, at least, \$1 billion that is public sector, but not nongovernmental. That is why the General Appropriations Act covers P200 billion plus, and the remaining P100 billion plus is really under automatic appropriation which is a mixed bank between national government obligations and public sector obligations — whether PNB, DBP or the Central Bank.

If there are appropriate wordings that the Gentleman could suggest, we certainly will be happy to try to work out a refinement.

Senator Tañada. Thank you, Mr. President.

Perhaps, it would also help us if the technical staff of the Central Bank could provide us with the necessary information as to what really constitutes this foreign debt being serviced by the Central Bank, and if it also could supply us the specific information about the secret debt-servicing not only of the Central Bank but, I believe, the Central Bank would be in a position to know of the National Power Corporation, the MWSS, the NIA, the PNB and DBP. That would certainly help us in coming out with the proposed amendments to this particular section.

Senator Roco. Yes. We will ask the staff. Because this was initially given, I think. But in any event, we will make another copy of the May 26 letter of Deputy Governor Zialcita which may partially satisfy the information sought. I do not know and I cannot authenticate as to the completeness, but certainly, it will be, at the very least, partial fulfillment for the request of the Gentleman, Mr. President.

Senator Tañada. Marami pong salamat.

Senator Roco. Yes, thank you very much.

May we ask the Secretariat to immediately make a copy of all this so that it is not forgotten.

The Presiding Officer [Senator Lina]. The next to interpellate is Senator Tatad.

Senator Tatad. Mr. President, I have not intended to intervene, but there are a few questions that remain unclarified on my mind. So even as I see the distinguished Sponsor foregoing his rightful share to the food that is being served at Room 410, I was wondering if I could ask these few questions.

Senator Roco. I will be very happy to attempt to answer the questions of the Gentleman, Mr. President.

Senator Tatad. Mr. President, in obedience to the Constitution, the bill seeks to create an independent Central Monetary Authority called the Bangko Sentral ng Pilipinas to be in charge of monetary policy. Its main function is to maintain price stability. This to us is a most laudable objective, and I support it. But it is this that raises a number of questions which I have been unable to resolve in my mind even as I follow the interpellations.

The first question relates to price stability as an objective of economic policy, Mr. President. Our economic goals include full, or at least high levels of, employment, stable prices, a balanced external position and rising standards of living.

The questions that arise are, can these goals be simultaneously pursued with any degree of success without any compromises or trade-offs? More precisely, is there no inherent conflict between stable prices and unexpansionary economic activity? Should we have a monetary authority that is so fixated on fighting inflation that it would pursue this objective regardless of its cost in real output or unemployment?

Senator Roco. In the econometric models, Mr. President, submitted, the different factors and goals that seek economic development are factored in. Evidently, when there are different goals that are suggested but the same resources are sought to be used to achieve them, a stress on one will require a downside effect on another goal. The management of all these factors become then the principal obligation and responsibility of the economic managers, finance, and, presumably, with some intelligent inputs from the NEDA. But it becomes executive political will that must implement the judgment in selecting which goal will be pursued with greater vigor initially and how the other goals can be made to catch up in due time.

I know that is a mouthful, Mr. President, but all I am trying to explain is that in the allocation of resources, some goals may have to be sacrificed over others. But in the particular case at hand, monetary policy should not be subjected to the same anguish of allocation of resources and that is why we say conducive to balance growth.

In other words, Mr. President, the focus of the Monetary Board is to ensure control of domestic inflation and some stability in the changes of value of the Philippine peso. The usefulness of that is, if we create a certain kind of predictability for enterprise, for commercial activity, for manufacturing expansion, or agribusiness development and we do not subject, therefore, the Monetary Board to too much debate as to which of these economic goals suggested by finance, for instance, or by trade, or by industry, may be favored. We do stress a balanced neutral exercise of monetary policy definition so that none of the sectors will be particularly favored by the Monetary Board. And we have seen that it has happened before.

Senator Tatad. Mr. President, I look at the proposed structure and what is very striking about it is the specific effort to remove the Secretary of Finance from the Monetary Board. This creates a kind of Great Wall of China between the new Central Bank and the Finance Department. The justification, of course, is: to remove the influence or pressure of the fiscal department from those in charge of monetary policy. But the experience in many countries is that it is a healthy partnership between the monetary policy and fiscal policy that brings about economic growth, and this translates into a healthy partnership between the CB Governor and the Finance Secretary. In fact, the perennial and almost universal complaint of CB Governors is that they are expected to bear the sole burden of monetary policy — i.e., of wiping out inflation, without any participation from the fiscal department, although, of course, this is balanced, on the other hand, by the complaints of Finance Secretaries who say that they are unable to do the things they like to do and need to do because of the complaints of vociferous CB Governors.

In a major conflict between the Secretary of Finance and the CB Governor or the Monetary Board, who prevails? In a conflict of no immediate resolution, who resigns?

Senator Roco. Let me answer first the question. In matters of price stability, the Monetary Board will prevail, if the bill is approved as envisioned. In matters of fiscal policy, I guess the Department of Finance or the Secretary of Finance will have other instruments to try to influence the economic activity.

There may or may not be a need for resignations. We leave this as to how strong the Gentleman may feel or the occupants of this position may feel. If it were a parliamentary government, possibly one should resign, and if he continues under the

presidential system, we have seen accommodations and sensitivities addressed politically in other ways.

Senator Tatad. Mr. President, I ask the question because although it is a hypothetical situation, the situation could well arise in which the declared economic objective of pursuing full employment might be curtailed by an inflation-fixated Central Bank or Monetary Board that would pursue its objective of fighting inflation at all costs regardless of what it does to employment.

I raise this point specifically because I understand that in a country like Canada where they have tried to create a very independent Central Bank, they have nevertheless vested in the government the ultimate responsibility of determining and maintaining monetary policy. So that when a conflict arises between the government and the Central Bank, the government is given the ultimate authority to decide what the monetary policy is going to be, and this is arrived at after due consultation.

There are several rounds of consultation to bridge the disagreement. If no agreement is reached between the monetary policy guys and the fiscal policy guys, then the government assumes the responsibility. In writing, it issues what is to be the monetary policy over a specific period of time, usually a very short period of time.

I wanted to bring that into the picture because I would like to ask the distinguished Sponsor if he might be sympathetic to an amendatory proposal of that nature later on.

Senator Roco. Mr. President, it is very difficult to craft such a proposal, but we are willing to listen. But let me just respond to the two points.

At the hearings, Mr. President, the Chairman expressed also the concern that there may be too much fixation in control of domestic inflation. And at least, some of the resource persons and some of the economists manifested that there are instances when we may even push a little inflation. So the wording of the primary objective of the bill, as proposed, allows that possibility.

Presumably, of course, they should not push it erratically or with great variation in the value of the money because then, that will contradict the principal or the primary objective of price stability.

As far as the fixation on the control of inflation, we did address that and we share the same concern as the Gentleman.

As far as the definition of monetary policy as coming from the government is concerned, fortunately, the Constitution seems to settle the issue because this is given already to the Monetary

Board or to the Central Bank so long as the new CMA has not yet been constituted.

The good part here, Mr. President, is, the real test of political leadership and selection that President Ramos will be meeting if this is approved is when he selects those rare birds, the seven new members of the Monetary Board. The selection process and the combination of that new Monetary Board, Mr. President, will probably state to a great extent what will happen to this piece of law that we are discussing.

Senator Tatad. Another question, Mr. President. We have the regular budgetary process and during this period we enact the General Appropriations Act. We also pass the taxes to support expenditures. This usually happens once a year.

Supposing, between the time that the budget is passed and the time that the next budget is going to be passed, there are certain unexpected distortions in the national economy; there are calamities and such things, which bring about a need to readjust the fiscal position of the government, normally, this cannot be done alone by the fiscal department. The government will have to fall back on the Central Bank, as it did so in numerous instances in the past.

What would the new Monetary Board under the BSP be prepared to do under such circumstances?

Senator Roco. That may not be inherent in the Central Bank monetary functions. And while they may want to define ad hoc solutions for the particular situation the Gentleman has mentioned, there is beauty in the flexibility recommended by the bill — that we allow the Monetary Board to make precisely such a judgment within their primary competence.

Senator Tatad. I would like to abbreviate this period of interpellations, Mr. President, because of very serious time constraints. I would just have a couple of more questions, Mr. President.

Senator Roco. Yes.

Senator Tatad. The bill proposes that members of the Monetary Board be of Cabinet rank and subject to confirmation by the Commission on Appointments. The Sponsor was very clear and candid on why he is introducing this particular qualification — that they be of Cabinet rank, that is, — in order to qualify them for confirmation by the Commission on Appointments. But the Constitution seems to me to be very clear with respect to who falls under the jurisdiction of the Commission on Appointments, and the group of officials includes heads of Executive departments, ambassadors, other public ministers and consuls or officers of the Armed Forces from the rank of Colonel

or Naval Captain and other officials whose appointments are vested in the President by the Constitution.

Does this mean we should be prepared to recommend that the CB be considered a department of the Executive Department for purposes of appointing the members of the Monetary Board?

My difficulty, Mr. President, is that I am reminded by the lawyers that in several instances, the Supreme Court has ruled that one cannot add to the list that is enumerated in the Constitution.

Senator Roco. Yes, Mr. President. In fact, after our initial discussion with the Gentleman from Bicol, the Committee amendments will contain modification to that phrase. We will limit it to the Governor of the Central Bank as being Head of a department. The Supreme Court rulings have talked of the enumeration but does not prohibit Congress from creating a department, or recognizing an agency as a department. The head of a department then qualifies literally with the enumeration of the Constitution, and we hope that our effort to qualify it within the context of the Constitution will then succeed.

Senator Tatad. I support the effort, Mr. President, but I just wanted to raise that question because if we did that, he would then become the only head of department with a fixed term. He would also be the only head of department with a cabinet rank who would be drawing a salary much higher than the salaries of the other cabinet members.

Senator Roco. That is correct, Mr. President.

Senator Tatad. I hope that presents no infirmity to what we are trying to do here.

Senator Roco. I hope not also, Mr. President.

Senator Tatad. My last question, Mr. President. The Sponsor has said in the course of the previous interpellations that he considers the BSP as a *sui generis*, although strictly speaking, it remains a government-owned and -controlled corporation.

Is there anything in this bill that would make the Bangko Sentral less vulnerable to the rules and regulations, memorandum orders and circulars addressed to the different entities called GOCCs? Or, should we set that entity apart from all the other government-owned and -controlled corporations?

Senator Roco. In the audit, there is a specific provision as regards the auditing. In the salary structure, there is reference to the standardization law, but as the basic framework within which the higher compensation scheme can be worked into, there is also an effort to introduce Human Resource Development System. So, to a great extent, there are other features. But maybe those

features will exempt or insulate the Central Bank from the normal pressure of a GOCC.

We consciously stated, Mr. President, that it is not GOCC as defined by other laws, precisely to give some flexibility, some leeway to the Central Bank Monetary Governor and the Monetary Board Members to argue later on when certain bureaucratic rules are sought to be enforced upon them, and in case there are conflicts of jurisdiction.

Senator Tatad. Thank you very much, Mr. President. Thank you very much distinguished Sponsor and Chairman of the Committee on Banks.

Senator Roco. Thank you very much also, Mr. President.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, Senator Maceda, the next to interpellate, has graciously offered to continue his interpellation at three o'clock this afternoon. So that our Sponsor and Chairman will continue to be healthy and will not have any ulcers, Mr. President, I, therefore, move that we suspend the session until three o'clock later this afternoon.

Senator Roco. We appreciate it, Mr. President, and thank you very much.

The Presiding Officer [Senator Lina]. The session is suspended until three o'clock this afternoon, if there is no objection. *[There was none.]*

It was 1:04 p.m.

RESUMPTION OF THE SESSION

At 3:40 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, while we are waiting for the Chairman of the Committee on Ways and Means so that we can move for the approval on Third Reading of the Cigarette Tax bill, may I just ask that Senator Lina be recognized so that he can introduce into the *Record* the privilege speech that he wanted to deliver.

Senator Lina. Mr. President.

The President. Senator Lina is recognized.

Senator Lina. Salamat po, Ginoong Pangulo.

Kahapon po ay lumabas sa mga pahayagan na pinagtibay na ni Pangulong Ramos ang isang panukala na nanggaling sa Kagawaran ng Edukasyon na magdadagdag ng isang taon sa elementarya o di kaya ay sa mataas na paaralan.

Mayroon po akong inihandang privilege speech dito na ang pamagat ay "Quality Basic Education for all, the Urgent Priority Today." Subalit alam ko po na talagang gipit tayo sa panahon dahil sa magtatapos na ang ating sesyon bukas at mayroon pa tayong dalawang panukalang batas na nais na pagtibayin.

MOTION OF SENATOR LINA (Insertion of His Privilege Speech into the *Record*)

Kaya, akin na lamang pong ipapasok ang aking privilege speech na ito sa *Record* ng ating Senado.

Maraming salamat po.

PRIVILEGE SPEECH OF SENATOR LINA ("Quality Basic Education for All, the Urgent Priority Today")

The following is the full text of the written privilege speech of Senator Lina:

Senator Lina. Mr. President, distinguished Colleagues:

The education of children and youth is a matter which deserves national attention because any policy and program direction change in education affects some 10.2 million elementary school pupils and 3 million high school students in the public schools.

Yesterday, all the newspapers reported that President Ramos has approved the proposal of the Department of Education, Culture and Sports to lengthen the formal basic education from ten years to eleven years, thereby adding one year to elementary or to secondary education starting 1994.

The Department as of the report on June 3, is still studying whether the additional year of schooling for our children and youth would be applied to the elementary level of six years or to the high school level of four years.

Another proposal which appears to have been approved by the President is to lower the admission age of first graders and to move the opening of classes in 1994 from June to July.

Mr. President, I firmly believe that these and other proposals of the Executive Branch on education should be thoroughly looked into and be subjected to public hearings with the students.

RESUMPTION OF THE SESSION

At 4:11 p.m., the session was resumed.

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

**SUSPENSION OF CONSIDERATION
OF HOUSE BILL NO. 8308**

Senator Romulo. Mr. President, while copies of the bill as approved and amended are being faxed, may I move in the meantime that we suspend consideration of House Bill No. 8308.

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

BILL ON SECOND READING

**Senate Bill No. 1235 - The New Central Bank Act
(Continuation)**

Senator Romulo. So that we do not lose time, Mr. President, I move that we resume consideration of Senate Bill No. 1235, the Central Bank Act bill. I ask that the Chairman of the Committee on Banks, Senator Roco, be recognized, and for Senator Maceda to continue and wind up his interpellation.

The Presiding Officer [Senator Aquino]. Senator Roco and Senator Maceda are recognized.

Senator Maceda. Thank you, Mr. President.

I did say earlier that I will just have four or five questions left. But I am afraid I may have a little more because during the break, from one to three in the afternoon, I extensively went over Senate Bill No. 1235 and there are some points that I feel should be clarified, starting with this point:

Mr. President, in the entire interpellations, so far, from beginning to present, what has been emphasized to no end, and I agree, is the independence of this new Bangko Sentral or CMA. Is that not correct?

Senator Roco. It is independence with responsibility; it is independence with accountability; and that is the focus of the bill. It is not just independence.

Senator Maceda. And part of the concept of independence — and that is reflected in the new composition of the Monetary Board — is to make it truly independent even of the Executive or the political leadership of the country. Is that not the thrust, Mr. President?

Senator Roco. That is the thrust of the constitutional mandate — to have majority of the Monetary Board members coming from

the private sector. Whether one can read that that should result in independence from the political leadership, it does not necessarily follow, for the simple reason that the Monetary Board still reports to Congress and to the President. Whether that kind of reporting makes them dependent is another matter. In my view, it does not.

Senator Maceda. Towards that line, the latest draft now shifts to the NEDA Director General, and in effect knocks off the Secretary of Finance.

Senator Roco. Maybe, Mr. President, the Gentleman would not want to look at the latest draft because it has not been acted on. We just wanted to save time by asking the Secretariat to work in all the proposed amendments. In fact, we will not accept that particular amendment; we will not submit it. After reading the press statements yesterday and today of NEDA, we do not think they are fit to sit in the Monetary Board.

Senator Maceda. All right, Mr. President. That is acceptable to us for the moment. But it is really preliminary at this point.

Looking at the 67 pages of the bill, there stands out, on page 38, Section 67, Emergency Restrictions on Exchange Operations.

Senator Roco. I am looking, Mr. President, at page 36, Section 67 of the bill.

Senator Maceda. In my draft of June 3, it is page 38, Section 67.

Senator Roco. Yes, except that this has not been acted on, Mr. President. It is purely a draft that we propose so that it is ready. I can use this also, so long as we are not misled.

Senator Maceda. All right. Yes, Mr. President. Anyway, in this particular section, there is no proposed or capitalized amendment.

Senator Roco. Yes. Fine.

Senator Maceda. So, I suppose we are looking at the same Section 67, entitled, "Emergency Restrictions on Exchange Operations." I note that it is only in this section where we require that a certain action of the Monetary Board should be with the approval of the President of the Philippines. That is my point. Nowhere in the entire bill under consideration is there such a similar requirement.

So the question is: Is this not contrary to the principle of independence that we would like the new Bangko Sentral to have? And if not, why only this particular action which I do not see as exceptionally in a class by itself in relation to similar emergency powers of the Monetary Board?

Senator Roco. In times of emergency, Mr. President, it is better for the country that all officials act together. That is why this is an instance where the action of the Monetary Board is submitted to the President. Whether that results in dependence or independence becomes a secondary policy consideration.

Senator Maceda. Taken by itself, that is correct. But what I am referring to, Mr. President, is that there are — I am sure the Gentleman recalls because he crafted this bill — other sections where we require the concurrence of at least five of its members, which means to say that that particular act is of such importance and magnitude. And that instead of the ordinary majority rule, we require, just like in Section 67, the concurrence of five of its members. That is one point.

The second point is: When we go, for example, to Section 79 on Emergency Loans and Advances — in periods of national and/or local emergency or of imminent financial panic which directly threaten monetary and banking stability, we require the same vote of at least five. But in this case, which is also an emergency, there is no requirement that it must be with the approval of the President of the Philippines.

Senator Roco. Because there are differentiations between the two.

Senator Maceda. That is what I would like to know, Mr. President. Please explain to me the exact differentiations between these two.

Senator Roco. The Gentleman was referring to Section....

Senator Maceda. Section 67 and Section 79.

Senator Roco. In the case of emergency loans and advances, this is under the emergency credit operation, which falls under the credit policy and loans to banking and other financial institutions, which are generally considered to be normal central banking activities, Mr. President.

In the case of Section 67, in the Emergency Restrictions on Exchange Operations, the emergency is such that in the imminence of or during an exchange crisis, or in time of national emergency and to give the Monetary Board and the government time in which to take constructive measures to forestall, combat, or overcome such a crisis or emergency, the Monetary Board, with the concurrence of at least five (5) of its members and with the approval of the President of the Philippines — because a larger sector can be affected — may temporarily suspend or restrict sales of exchange by the Bangko Sentral.

These are not normal central banking activities. In fact, they fall under abnormal situations. But if the Gentleman has proposals

to modify that, then we will be willing to consider whatever proposals or amendments he may want to suggest.

Senator Maceda. Thank you, Mr. President. But before I come to frame in my mind the appropriate amendment at the proper time, I precisely want to give the Sponsor a chance to explain. Because it stands out to me like this is in a class by itself when, to my limited perception, the wording of Section 67 which speaks of "in the imminence of, or during an exchange crisis, or in time of national emergency" is basically the same as in Section 69 when it says, "In periods of national and/or local emergency or of imminent financial panic which directly threaten monetary," et cetera.

So I would really leave it to the Gentleman. But I am suggesting that in all these decisions where a five-man minimum vote is required, that the approval of the President is required or that the approval of the President is not required in any event in spite of the position taken by the Gentleman from Isabela, Senator Alvarez, referring to the paper of Armando Armas, a UNDP Consultant.

My concept of making the Central Bank, the new Bangko Sentral to be specific, independent in every way, is, any removal of any interference or any participation of the President in a decision would make the Central Bank more independent. So it is really up to the Gentleman. I am just saying that for consistency, either we require the approval of the President in both or in similar other cases or we do not require the approval of the President in any case.

Senator Roco. Incidentally, Mr. President, in Section 67, there are apparently restrictions of property rights over foreign exchange. That is why there is the concurrence needed for the President. While in Section 70, it is merely the Bangko Sentral extending assistance. It is in aid when there is need for emergency loans. Just to add to the distinction between the two sections.

Senator Maceda. Thank you, Mr. President. So we will attend to that at the appropriate time and maybe, in the meantime, the Gentleman can frame his preference on the issue just pointed out.

Mr. President, going now to the matter of the composition of the Monetary Board in relation to their term, I think as a matter of style, while it is implied there is no specific term that has been provided for. What I am trying to say is that for the three full time, are we talking of a six-year term, and that for the two part time, are we talking of a five-year term?

Senator Roco. There is a further provision that the Gentleman may want to consider, and it states:

Five (5) members who shall come from the private sector, three (3) of whom shall serve full-time and two (2) of whom shall serve part-time: *Provided, however,* That of the members first appointed under the provisions of this subsection, those who shall serve full-time shall have terms of two (2), four (4), and six (6) years, respectively, and those who shall serve part-time shall have terms of office of three (3) and five (5) years, respectively.

I guess, Mr. President, when the President appoints, he shall designate who shall have two, three, four, five or six years.

Senator Maceda. That is not the point, Mr. President. The point is, when the term of the one appointed to two years expires, shall his replacement serve for a period of six years?

Senator Roco. That is correct, Mr. President.

Senator Maceda. That is not clear the way it is written out here.

Senator Roco. That is correct.

Senator Maceda. Especially when we have this three-year and five-year terms. When the three-year term of one expires, what will be the term of his successor? Will it be six years also?

Senator Roco. In the opening statement, all members of the Monetary Board shall have a term of six years. Only the first appointments shall be staggered so that thereafter, a new member of the Board shall be appointed for a six-year term by the President on a yearly basis because of the way appointments are given — two-year term, three-year term, four-year term, five-year term, and six-year term. So that effectively, Mr. President, what is visualized is a situation where fresh blood would be coming in every year even as everybody enjoys already a six-year term.

Senator Maceda. I accept that, Mr. President. I was just trying to clarify it because as far as the copy I am using is concerned, I do not see any statement in the beginning that the five members shall serve a term of six years.

Senator Roco. I am sorry, Mr. President, but it is in the official copy we are looking at. That is the first paragraph of Section 5. Maybe, even in that copy, it should also state the same.

Senator Maceda. All right, Mr. President. Thank you.

I am quite happy about this disqualification of three years prior to an appointment and likewise three years after the expiration which again, is a proposed amendment. But I will raise it because even without this proposed amendment, I would have raised the issue anyway.

What does the Gentleman mean by "multilateral banking?" I am going in the direction of suggesting the deletion of that.

Senator Roco. What section is this?

Senator Maceda. Section 8 on the Disqualifications. For brevity, would the Gentleman agree during the proper period of amendments that we remove the word "multilateral?" So that the understanding is, "anybody who has been directly or indirectly connected with any banking or financial institution cannot serve?"

Senator Roco. Again, Mr. President, the Gentleman is looking at the copy that was worked on by the Secretariat that already contains all the wordings of the proposed amendments.

Senator Maceda. Yes. But I explained, Mr. President, that even if this amendment is not here, I was thinking in this direction myself to impose this kind of an amendment. That is why I am discussing it.

With or without the proposed amendment on this copy, my own individual thinking on the matter is in agreement to a very, very strict disqualification of any banker being appointed to the Monetary Board. As a matter of fact, I was toying with the idea of an absolute disqualification, but I have heard the thinking of the Author that that might be too discriminatory. So this three-year period is good enough. I was just asking him whether he would agree that unless the word "multilateral" is something that does not delimit banking the way it does, my feeling about the matter is, I would, at the proper time, argue for this amendment without the "multilateral." Meaning to say, that no person shall be a member of the Monetary Board if he had been directly or indirectly connected with any banking or financial institution within three years prior to this amendment.

Senator Roco. Yes. In the period of interpellations, Mr. President — I do not remember anymore who asked for this; it may have been Senator Shahani and at another point, it may have been Senator Tafiada — I did state that I have no objection, in principle, to refining or extending the prohibitions of the Anti-Graft Law.

If the Gentleman submits this proposed amendment, together with — I think, this is a Shahani amendment — then, by all means, Mr. President, it will be considered.

Senator Maceda. Thank you, Mr. President.

Without going into the specific provisions on expenses, compensation structure, which are starting from 5, 6, 7, et cetera, I was wondering whether the Gentleman would consider some sort of a percentage limit on what the Central Bank, in its budget, could devote to personnel services and/or total operating expenses.

We are trying to have a situation, as the Gentleman said, where they would make creatively some profit. But going by the experience in similar government corporations and/or financial institutions, I am afraid that, especially with the normal presence of very strong unions or associations unless the law would put some sort of a cap, that it may not have too much profits to speak of because there would be a pool to devote so much to expenses.

While it is an entirely different situation but just as a starting point, in the Philippine Charity Sweepstakes Office, by law, they are only allowed to spend 15 percent of their income for operational expenses. As a matter of practice, although not by law, the PAGCOR tries to limit its expenditures to about 20 percent of the gross income. I admit that the National Government's average goes to about 65 percent for personnel services and 35 percent for MOOE and capital outlay. That is the reason why every year we have a call, and the Senate President is an outstanding exponent of this, to try to trim the government machinery by reducing personnel, which means to say, reducing personnel expenses.

The ideal goal being, that there should normally be not more than 50 percent, if not less, for personnel services so that there is enough money for MOOE, for capital outlays, for development, for projects and the like.

Would the Gentleman from Camarines Sur agree to putting some sort of a limit or a cap as to the amount that the new Bangko Sentral could use for its budget of operations and more specifically, personnel services?

Senator Roco. The Gentleman from Camarines Sur will agree to looking at any proposal along those lines with the Gentleman from Manila, subject to normal management standards of flexibility so that we will not inhibit the leadership or the management of the Bangko Sentral. As a juridical entity, certainly, things can be worked out.

Senator Maceda. Thank you very much, Mr. President. I am very keen on this because I happened to have been a Governor of the DBP, when we were pressured, directed and we were informed — I think there was all that pressure on the Executive — at that time to transfer all the DBP and PNB debts to the National Government which is now history. But right after that, since they got cleaned out of their debts, what I recall is that the PNB Labor Unions and, in my personal knowledge, the DBP Labor Unions seeing that the balance sheet has been cleaned out and we were reflecting billions in profits, were saying, "Pay us better bonuses, higher salaries because you are now making so much profit" which was a very unfair demand because the DBP and PNB at that time reflected such a tremendous increase in income because *nawala yung utang na in-absorb ng poor National Government at ng poor Filipino people.*

So that is the background for this, and we know that that is the same situation, in a sense, in the Central Bank, Mr. President.

Senator Roco. We heard the comments, Mr. President.

Senator Maceda. Mr. President, I think I just have a few more, if the Gentleman would not mind.

On Section 28, I think on Conservator — the Conservator shall receive remuneration equal to what the President of the institution receives in one year payable in 12 equal payments.

Mr. President, I recall that in the confirmation proceedings of Secretary Del Rosario, his salary as President of Asian Bank is P4.3 million. So is it possible that under this provision, if something goes wrong with Asian Bank, and a conservator by the Central Bank is appointed, will receive a remuneration of P4.3 million? Is that the meaning of this provision?

Senator Roco. That is correct, Mr. President. That proviso encourages a termination of the conservatorship at the earlier period of time.

Now, why should they get paid the same amount as the bank?

Conservatorship, Mr. President, occurs when the Monetary Board finds that a bank or a quasi-bank is in a state of continuing inability or unwillingness to maintain a condition of liquidity deemed adequate to protect the interest of depositors and creditors.

In other words, there is some problem. If we put a conservator that is lower paid than the former president, then there may not be the same incentive to perform as well. What we are trying to do, since they will conserve and they will work as hard as the former president, effectively, they will be the active manager. We felt equitable, Mr. President, that for the same kind of work, the same kind of pay must be received.

Senator Maceda. I understand that it sounds logical, Mr. President. My only reaction is, it could conceivably be that the reason the bank is in trouble is precisely that the president and the other officials have been overpaying themselves. And precisely, when a bank is in trouble, it means to say that the expenses are more than the income.

The second point is, why should a conservator get much more than P1.2 million, which is the maximum that a member of the Monetary Board can get?

In the period of amendments, would the Gentleman accept a proposal that while we keep this language, we put a proviso "but not more than what a member of the Monetary Board receives in one year's time."

Senator Roco. We will be willing to consider any such proposals, Mr. President.

In fact, our generosity knows no bounds. Even as we know that the Gentleman from Manila will speak against and has issued a press release already on his *turno en contra* speech, we will still consider all proposals or amendments from the Gentleman.

Senator Maceda. Thank you, Mr. President.

We are just following the normal parliamentary procedures of which the Gentleman is an expert having been a member of the House. But, at least, give us some leeway and credit for having taken that time out to really look at all these paragraphs one by one.

Senator Roco. Yes, Mr. President. But in the thrust and parry of Parliamentary debate, one does have a reasonable expectation that if answers are given adequately, perhaps the Gentleman could change his mind. But when he continues pursuing questions knowing fully well that he has declared that he will vote against, one is tested in one's patience.

Senator Maceda. Yes, Mr. President, except that the Gentleman knows that the purpose of interpellations is not solely for his or my opinion alone but we do, many, many times interpellate so as to insert into the *Record* information and interpretations which might be helpful in the future when there is a need to try to determine what is the intent of a certain article or provision. So, I hope that the Gentleman will be a little more patient.

Going to the Guiding Principle on Section 60 on Domestic Monetary Stabilization, I am trying to go to the point directly, Mr. President. I am a little concerned by the wordings which says "The Monetary Board shall endeavor to control." I do not know whether in banking lingo that is strong enough, but in legal lingo, and both the Gentleman and I are lawyers, would he consider a possible rewording along the lines which would read: "The Monetary Board shall have the duty to control" instead of "the Monetary Board shall endeavor to control?"

Parang malambot masyado iyan, eh. Kung gusto nila, "endeavor". Kung hindi, okay lamang. But if the Gentleman says they have the duty to control, is that not what we really mean?

Senator Roco. Yes, the point is well-taken, Mr. President.

Senator Maceda. Thank you. Lastly, I have one that is well-taken, Mr. President.

Senator Roco. Mr. President, just to correct. In the course of the past three days on the various interpellations of the Gentleman, we have considered points as many as possible.

Senator Maceda. Since the Gentleman considered that point, I have less problems with going to Section 64, General Criterion, Means of Action. Here, it says, "the Monetary Board shall rely on its moral influence and the powers granted to it under this Act."

Senator Roco. Yes.

Senator Maceda. Meaning to say, parang nauna pa iyong moral influence. Just exactly what does the Gentleman mean? I took note of this in relation to the earlier endeavor to control. There seems to be again, not too strong a message being given.

Senator Roco. Mr. President, here I will beg the Gentleman's understanding. In the books we have read on Central banking, apparently one of the instruments for Central banking is moral suasion. It often appears because, after all, we are dealing with value of the money and to the extent that there is high moral suasion and high moral leadership recognized by the community, then, to that extent, we have Governors of the Central Bank who were powerful and Governors who were less than wimps. So, these words "moral influence" in the context of the literature on Central banking that the Chairman has read, appear to be an important standard, and that is the reason it is there.

Senator Maceda. As usual, Mr. President, the explanation is well-taken.

Senator Roco. Thank you, Mr. President.

Senator Maceda. I just want a little explanation, Mr. President, on all these provisions on exchange rates, on this provision where the Monetary Board on foreign exchange holdings may require banks to sell all or part of their surplus holdings. So many of them, in about five or six pages here. Are we not, in effect here, sending a message that we are not fully committed to the much announced policy of foreign exchange deregulation that the Ramos administration is very proud of?

Senator Roco. I hope not, Mr. President, because that was not the intention. In fact, Mr. President, these are largely taken from the old law with some modifications in words, and again they seem to be standard Central Banking actions that are being described here. But if there are some phrases that may transmit particularly that meaning, then we shall be very happy to delete it.

Senator Maceda. Yes, Mr. President, because, for example, if we just go to one or two fast examples under Section 69, of course, it would be fair to say the Monetary Board shall determine the exchange rate policy of the country. That is fair.

But when we go to the next paragraph and say the Monetary Board shall determine the rates at which the Bangko Sentral shall buy and sell spot exchange, et cetera, that looks like we are going

back or we are maintaining the old system and retrogressing from the idea of deregulation.

Senator Roco. Let me just comment on that, Mr. President. That is a very good observation, but so as to clarify the intention of the provisions, these words are just specific powers that the Monetary Board may or shall exercise under appropriate circumstances.

The administrative law principle that administrative bodies or public corporations cannot act unless there is some express statement allowing them to act in a certain manner is the reason for enumerating all these.

It is not an effort to bring back regulation. In fact, the deregulation of foreign exchange was done through Monetary Board action or circular.

Senator Maceda. At this point, Mr. President, just to show the banks that I am not all that prejudice against them, I am referring to Section 71. Would the Gentleman consider a 75 percent or 80 percent limit instead of saying that the Monetary Board may require the banks to sell all of their surplus holdings of foreign exchange? Meaning to say, they should be given some leeway for planning, for reserve, for their clients, et cetera.

Would the Gentleman consider a figure less than 100 percent?

Senator Roco. Mr. President, the Gentleman may wish to consider the effect on the flexibility of the Monetary Board. Even then, subject to a caveat of consultation with the technical staff, because I do not know quite the effect of ceilings imposed on the ability of the Bangko Sentral, I am willing to study the proposals along that line.

Senator Maceda. Thank you, Mr. President. There is some part here — I do not know exactly where now — where the Governor or Chairman or whatever we call him, with only two members can act subject to ratification.

In some of these emergency cases, we require that the Governor with five concurring members should act, and I am not quite sure whether in those cases where the Gentleman say that the Governor with only two concurring members can act is the appropriate number.

Senator Roco. May we invite the attention of the Gentleman to Section 18.

In case of emergencies where time is insufficient to call a meeting of the Monetary Board, the Governor of the Bangko Sentral, with the concurrence of two (2) other members of the

Monetary Board, may decide any matter or take any action within the authority of the Board.

The Governor shall submit a report to the President and Congress within 72 hours after the action has been taken.

At the soonest possible time, the Governor shall call a meeting of the Monetary Board to submit his action for ratification.

I guess, Mr. President, these emergencies could range from anything like an international monetary crisis or a coup d'etat. That is where the Monetary Board may have to move fast to stabilize or to prevent an erosion in the value of the currency, of the peso.

So, there is value to this, Mr. President. The Constitution itself allows similar provisions when there is a national emergency. But, again, we are willing to heed advice and counsel of the Gentleman.

Senator Maceda. Mr. President, so as to probably discourage the Monetary Board members from being out of the country on some trip at the same time, maybe if we require plus three, it should become an unwritten policy that a majority of four out of the seven should be in the country all the time. Because unless we have something like that, we might have a situation where all the members of the Monetary Board are in Washington or in Switzerland. I was also a little bit thinking along that line. But we will discuss that. Maybe we can live with the two being required to be full-time members of the Board.

Senator Roco. Mr. President, again, we have no strong feelings either way. But the concurrence here does not require presence. I think in contemporary corporate practice, even Board meetings are allowed to be in different jurisdictions. One can be in Hong Kong, if you wish, and the other one can be in Cuba so long as their telephone lines are operating. And assuming that the telephone lines in the Philippines are operating, one can also be even in Manila. But there can be a quorum if the Bylaws require it.

So, concurrence here, Mr. President, in our view, does not require physical presence.

Senator Maceda. Mr. President, can we move on to Section 84, Provisional Advances to the National Government.

Senator Roco. Yes, Mr. President.

Senator Maceda. I will put it in Tagalog to be quite simplistic about it. Bakit po pag ang Gobierno Nasyonal, over these so many years and up to now, ang magpapahiram sa Bangko Sentral, kung minsan ay walang interes, at kung minsan ay hindi na binabayaran,

at kung anu-ano pang kaluwagan. Ngunit bakit pag Bangko Sentral ang magpapahiram sa National Government ay masyadong mahigpit ang probisyong ito? Three months lamang. "Provided, that said advance shall be repaid before the end of three (3) months following the date the National Government received such provisional advances and shall not, in their aggregate, exceed twenty percent 20 percent of the average annual income of the borrower for the last three (3) preceding fiscal years."

Here I am taking up the cudgels for the National Government. Kapag tayo ang sumasaklolo sa kanila, ang lahat ay ibinibigay natin nang todo-todo. In this situation where there is necessity, ipagpalagay na nating lumaki at naging mayaman na itong Central Bank o Bangko Sentral, kung tayo ang hihiram, mahigpit at katakut-takot ang kondisyon ilalagay natin.

Senator Roco. Alam po ninyo, ang Bangko Sentral ang tinatawag na "lender of last resort." Kung napakarami pong pera ang nailabas nila at inaabonohan ang appropriations, mahihirapan tayo pag kulang ang kolekta sa revenue.

Ang problema po sa appropriation ay tulad din sa budget ng pamilya. Tayo po ay nag-a-appropriate kahit wala pa tayong nakikitang pera. Pero pag may appropriation na, alam na po natin ang pagkakagastusan natin, kahit hindi pa natin alam kung saan kukunin ang pera.

Dahil dito, binibigyan natin ng role ang Bangko Sentral bilang ating "last resort." Kung kulang or walang pondo ang National Government, mabibigyan ito. Ngunit sa loob po ng tatlong buwan, kailangang maibalik iyong utang. Kung hindi maibabalik iyon, daraming masyado ang perang nailabas at dahil doon ay baka maapektuhan ang value, ang tinatawag nating price stability.

Ganoon po ang naiintindihan ko rito. Maaari pong may kaibahan sa pagkakaintindi ng ibang nakikinig.

Senator Maceda. Iyon lamang po ang tingin ko. Anyway, under this Section, they are not mandated. It says they may direct. If they think that they want to be repaid in three months' time, I think the better formulation here is to remove the proviso and in the decision of what is supposed to be an independent Monetary Board to make direct provisional advances to the government which will be their own voluntary act, at that point then, they can put in the conditions of the advance. Hindi naman ito mandatory.

Senator Roco. Opo. Puwede pong matimpla iyan. Pero iyong prinsipyo po na dapat bayaran sa loob ng tatlong buwan iyong utang o ang limitasyon na 20 percent average annual income ay mahusay na prinsipyo.

Senator Maceda. Oo nga po, kung hindi lamang dito sa sinasabi kong background. Ang pinag-uusapan natin kahapon pa

unang-una ay malamang mag-appropriate tayo ng P25 bilyon sa susunod na taon. Siguro ay puwede rin nating ilagay na pag pumunta sila sa Kongreso at humingi sila ng appropriation, they should repay it in three months also, para maging pantay.

Iyon lamang ang sinasabi ko. Hindi naman fair na pag pumunta sila sa atin ay open-ended, kung kailan nila puwedeng bayaran iyon. At malamang na hindi na babayaran iyon. Kung tayo naman ang hihiram, huwag naman sana tayong masyadong gipitin.

Senator Roco. Wala pong argumento doon. Ngunit po sa mapatama lamang natin ang sinasabi. Nakakasiguro po tayo na sa susunod na taon ay hindi hihingi ng P24 o P25 bilyon ang bagong Bangko Sentral kung ang bill na ito ay maaprubahan. At nakakasiguro po tayo na siguro ay kulang ng P10 bilyon. Siguro, sa unang apat o limang taong ibibigay nating bagong kapital sa kanila ay kaunti lamang ang subsidy na hihingin nila. Kung magkulang man sila, napakagaling na nila. Talagang kahiyahiya po ang bayan at ang lahi ng Pilipinas kung sakaling nabigyan na natin ng napakalaking tulong ay hihingi pa ng malaking tulong sa susunod na taon.

Senator Maceda. Salamat po. Nasa Section 100 na po tayo.

Senator Roco. Opo.

Senator Maceda. Interest rates, commission and charges - "Monetary Board must prescribe the rates of interest... that banks may pay to or collect from their customers."

Hindi po ba puwedeng ilagay rito iyong sinasabi ko na magkaroon ng some restriction on the spread between the savings rate that they pay and the lending rate that they require?

Senator Roco. Ako po, personal, ay gusto ko ring lagyan dito ng isa pang instruksiyon na babaan ng reserve requirement ang mga bangko. Sapagkat sa aking munting pagkakaintindi ng mga reserve requirements, kapag binabaan natin for every 3 percent, bumababa daw ang interest rate by three. Maaari pong lagyan natin ng iba pang mga instruksiyon upang malimitahan ang intermediation cost o kung ano pa mang mga factors na inilalagay dito sa interest rates.

Ngunit dahil ang prinsipyo at ang teoriya ng ating bill ay delegation of powers with sufficient legislative standards, kami po ay naghunos-dili at hindi namin inilagay ang iba't ibang naiisip naming maaaring maging principles of monetary policy. We have restrained ourselves, Mr. President, from giving specific details on monetary policy, because of the theory behind the bill of delegating to the appropriate competent Monetary Board the decisions on monetary policy and operations.

Senator Maceda. Naiintindihan ko po iyon kahit limitado ang aking karunungan sa mga bagay na ito. But in this particular case, and we have done this in other bills, more in the declaration of policy style, siguro ay puwede nating ilagay iyong wording natin kanina na "endeavor": "That the Monetary Board shall ENDEAVOR to see to it that the spread" — or whatever technical word is used to reflect that — "shall be competitive or similar to other developing countries in the area."

Senator Roco. That is a very good idea, Mr. President.

Senator Maceda. Okay. Payag kayo kahit "endeavor" lamang para maliwanag iyong policy na nandoon.

Sa Transitory Provisions na po tayo.

Senator Roco. Okay. Malapit na po tayong makaraos.

The Presiding Officer [Senator Aquino]. Baka kung pumayag kayo sa mga susog ni Senador Maceda ay bumoto na siya ng sang-ayon.

Senator Maceda. Alam ninyo, sa takbo ng pulitika rito sa Senado ay anything is possible these days.

Senator Roco. Kung ganiyan po ang panimula at baka mabawi pa ang pahayag na boto ng ating minamahal na Senador na galing sa Maynila, puwede pa hanggang isang oras ang pagtatanong.

Senator Maceda. Ang mahalaga, kung kayo ay mailuklok na Senate President Pro Tempore ay malaking bagay iyan sa aking desisyon.

Senator Roco. Ang tinutukoy po ba natin ay ang ating Presiding Officer?

Senator Maceda. Opo.

Senator Roco. Medyo nabuhay ang pagtingin ninyo sa mga pahina.

Senator Maceda. This is, I guess, what I stated the other day. Going to the bottom of Section 126, "All incumbent personnel in the Central Bank as of the date of the approval of this Act shall continue to exercise their duties and functions as personnel of the Bangko Sentral subject to the provisions of Section 128."

Akala ko po ay itinayo natin itong bago at ire-retain pa rin natin ang old Central Bank as an existing institution. Bakit ngayon ay sinasabi nila na "shall continue to exercise their duties and functions as personnel of the Bangko Sentral?"

Senator Roco. Para pong nagbitiw kayo sa chairmanship, continued holdover din po kahit na mayroong reorganization.

Halimbawa po, holdover lamang habang binabago under Section 128. Sa Section 128 po ay nakalagay doon ang mandate to reorganize.

We just wanted to avoid a situation of a total demoralization, Mr. President, in the personnel of the Central Bank. But the mandate to reorganize under Section 128, we hope, will suffice to effect what the Gentleman is seeking. "The Bangko Sentral shall be reorganized by the Monetary Board" which may include adopting an entirely new staffing pattern and organizational structure to suit the operations of the Bangko Sentral under this Act, and personnel who may not be retained are deemed separated from the service, et cetera.

So, itong Section 128 ay baka naman it will cover already the goals articulated by the Gentleman.

Senator Maceda. In some other legislations, Mr. President, it is the other way around. Where we say that the new department may assign personnel from the old department or from other offices to the new office, this is the other way around, where we say everybody is retained unless they are sent back to the old Central Bank.

Would the Gentleman consider it the other way around that we give the new Bangko Sentral the right to transfer permanent or temporary personnel from the old Central Bank? Because with this, lahat po noong 4,000, kung 4,000 man iyan, ay baka hindi na magtrabaho sa old Central Bank at magsiksikan na lamang sa opisina ng bagong Central Bank. It is better that we keep them in the old setup first and allow the new Central Bank the prerogative to choose whom they shall call and whom they shall use.

Senator Roco. Doon kasi sa formulation ng program of reorganization ay inilalagay natin na dapat na makumpleto sa loob ng anim na buwan. Ngunit may mga rekomendasyon po na gawin nating isang taon ito, the transition.

During that period of transition, we may have cracks. These are very operational matters, Mr. President, and I guess somebody will have to work out a critical path, the decision point, as they reorganize at the same time.

That is the only reason, Mr. President, why I cannot now categorically confirm or conform or agree to the suggestion of the Gentleman. We just want a formula where there will be no gaps in the operations even as there is a transfer now of functions to the Bangko Sentral.

Senator Maceda. Mr. President, I understand that and I am not insisting on an immediate concurrence. But the Gentleman will do admit that there are two ways of doing it —

Senator Roco. Yes.

Senator Maceda. — and that in other legislations it is the other way around.

Senator Roco. Tama po iyon at may nakita na rin akong ganoon.

Senator Maceda. Dito po sa Section 128 na sinasabi ninyo, mukhang walang probisyon para sa benefits ng mga personnel who may not be retained or may be separated from the service.

Senator Roco. Nasa Section 129 po iyong Separation Benefits.

Senator Maceda. Yes. The thing is, at this point, Mr. President — and I mean this sincerely and I have been consistent even in the other bills — I would support additional benefits in addition to the gratuities and benefits that they may be entitled under existing laws. But of course, what the Gentleman would want to do here is to leave that up to the Monetary Board. In the previous legislation, in the legislation itself, it provides for a higher benefit right away, whether it is one-and-a-half month or something for every year of service. If that is sufficiently covered by their plans, pension plans, incentive plans, considering that this is a financial institution, I have no problem anymore with that, Mr. President.

Senator Roco. It occurs to me, Mr. President, that if the Gentleman suggests a best effort or an endeavor to secure additional benefits for those who are to be separated, then, maybe, it will certainly be an improvement on the Separation Benefits.

Senator Maceda. Mr. President, I would like to sincerely thank the Gentleman for his patience. Frankly speaking, Mr. President, if we were not adjourning tomorrow, I would still have about one week of interpellation. I hope the Chair will also grant me that I did try to speed up my interpellations. Under normal nonadjournment-week type of consideration, the interpellations would have been longer.

Thank you, Mr. President.

Senator Roco. We are always grateful, Mr. President, for all the little mercies and all the little blessings that we receive.

Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. Thank you, Senator Maceda.

Senator Romulo. Mr. President, there are no more interpellations on the sponsorship speech. Perhaps, the Sponsor can take a little rest while we go to the next part of the debate which is the *turno en contra* speech. We have two of them. The distinguished Gentleman from Manila and Rizal, Senator Tolentino, will deliver the first *turno en contra* speech. I ask that he be recognized, Mr. President.

The Presiding Officer [Senator Aquino]. Senator Tolentino is recognized.

TURNO EN CONTRA

Senator Tolentino. Thank you, Mr. President.

Mr. President, I seek the indulgence of this Chamber for a few minutes to place on record my opposition to this bill, Senate Bill No. 1235.

The President of the Philippines has certified to the necessity of the immediate enactment of this bill. According to the Certification, I quote: "...to meet a public emergency arising from a failure to create an independent Central Monetary Authority as mandated by the Constitution."

Parenthetically, Mr. President, I submit that this presidential Certification is not based on fact but from a mere assumption. It rests upon a supposed failure — the word is "failure" — to create an independent Central Monetary Authority. But why failure, Mr. President? Are we failing to enact Senate Bill No. 1235? We are not.

Our Committee on Banks, Financial Institutions and Currencies has worked very hard on this bill, and the distinguished Chairman of that Committee has spent days and nights to finally submit a report to the Senate so that we can approve this bill contained in the report. We are trying our best to rush our work on this measure to the extent of meeting morning, afternoon, and evening.

Why should the President assume that there will be a failure to pass this bill, and there would be an emergency because of such failure? This baseless assumption, Mr. President, casts a reflection on the Congress and, more particularly, on the Senate itself.

More basic, however, Mr. President, is the assumption that if this bill is not approved, there would be a public emergency.

Article XII, Section 20 of the Constitution provides: "The Congress shall establish an independent Central Monetary Authority."

In the second paragraph of that Section appears this provision: "Until the Congress otherwise provides, the Central Bank of the

Philippines, operating under existing laws, shall function as the Central Monetary Authority."

It is clear, Mr. President, that at present we have an agency functioning as a Central Monetary Authority, and the mere delay or even failure to pass Senate Bill No. 1235 cannot result in an emergency because there is already an existing Central Monetary Authority.

In other words, the President's certification, being based on erroneous assumption, cannot be a legal basis for dispensing with the constitutional requirement of three days, after distribution of printed copies of the bill, before voting on Third or final Reading. On this basis, Mr. President, it seems that we cannot have this bill finally approved even by tomorrow evening.

I understand, Mr. President, that the real reason for rushing this bill is that the IMF has imposed the approval of this bill, I think, before the end of June, before IMF can agree to negotiate again with us on some proposed big loans. This reminds me, Mr. President, that the same reason was behind our hurry and rush in approving the Energy Crisis law.

It is possible that even the inclusion in the 1987 Constitution of the provision on the independent Central Monetary Authority was also engineered by IMF.

Mr. President, when will we ever stop being stampeded by the IMF to various official actions?

Up to this time I have not heard of any substantial reason for the creation of the new Central Monetary Authority. What can the new Central Monetary Authority do that the present Central Bank cannot do under its Charter? If there is anything that the Central Bank cannot do under its Charter, which we want it to do, why do we not just amend the Charter of the Central Bank and why do we have to behave as obedient vassals of the IMF?

Mr. President, I make this as a preliminary statement because I feel that we are being unduly rushed as a deliberative Body to the approval of this measure.

But now, Mr. President, let me turn to the bill itself. There are many provisions in this bill to which valid objections can be raised but, perhaps, some of them can be corrected easily by amendments.

For instance, under Section 89, the Monetary Board may require banks to deposit part of their funds as reserves but it is provided that the Bangko Sentral shall not pay interest on the reserves.

I understand, Mr. President, that right now the Central Bank fixes a certain rate of interest on the reserves of the different

banking institutions, but with this provision, that will have to be discontinued, because it is expressly provided that the Bangko Sentral shall not pay interest on the reserves. This seems to me a little bit unfair to banking institutions. The money that the banking institutions set aside as reserves come from depositors to whom the banks pay a certain rate of interest, but when this money for which the banks pay interest is placed in the reserves, I understand about 25 percent being placed in reserves, then the banks cannot even get the rate of interest that it will pay to its depositors. To me this is unfair.

Another feature that may be considered objectionable is Article 100, which authorizes the Monetary Board to fix the rates of interest which banks may pay to depositors. Perhaps it may be more in keeping with free enterprise to allow the banks to compete with one another as to benefits and interests they will give or pay their depositors. Such competition would even be beneficial to the depositors themselves.

I have seen some propaganda materials from different banks in the United States and in Canada and these banks actually compete with one another with respect to the interests they will pay and the benefits they will give to their depositors.

But, Mr. President, I consider these minor matters as not sufficient to make me rise to object to this bill. I have two important reasons why I am objecting to the approval of this bill as it is presented to us. First is that this bill breaks the confidentiality of bank deposits, and second, it provides the assumption by the Bangko Sentral of losses and liabilities of the Central Bank which, we are informed, amounts to about P308 billion.

Mr. President, we all know the reasons for the secrecy of bank deposits. Confidentiality of bank deposits has been provided by law in order to allow and encourage people not to hoard but to deposit their money in banks so that the banks can use these money in order to increase capital in the hands of businessmen and therefore aid in the improvement of our national economy, helping business and industries.

Under Republic Act No. 1400, all deposits of whatever nature with banks or banking institutions in the Philippines, including investments in bonds issued by the government of the Philippines and its political subdivisions and instrumentalities have been declared as absolutely confidential in nature and may not be examined or inquired into or looked into by any person, government official, bureau or office. There are three exceptions provided in the law. First, upon written permission of the depositor anybody may inquire into his deposit. Second, in case of impeachment then perhaps the government or other impeaching agencies may look into the deposit of the person being impeached. And third, upon order of a competent court in two cases: one, in cases of bribery or dereliction of duty of public officials, and

second, in cases where the money deposited or invested is the subject matter of a litigation.

During the martial law period, Presidential Decree No. 1792 added to the exceptions to the secrecy or confidentiality of bank deposits. These were added by PD 1792: First, that in the course of a special or general examination of a bank and the examination of the deposit specifically authorized by the Monetary Board, after being satisfied that there is reasonable ground to believe that a bank fraud or serious irregularity has been committed or is being committed, and that it is necessary to look into the deposit to establish such fraud or irregularity. And second, when the examination is made by an independent auditor hired by the bank itself to conduct its regular audit.

So, Mr. President, there has been a sufficient relaxation, perhaps, undue relaxation of this confidentiality and secrecy of bank deposits. We should consider that the amendment under PD 1792 was an amendment during martial law and reflects the spirit of that period and, that is, allowing the government to interfere even in private matters like bank deposits. But Section 25 of the present bill makes it worse. While the presidential decree allows the inquiry into bank deposits or investments only in the course of a special or general examination of a bank, Section 25 allows the examination any time the Monetary Board, on reasonable grounds of bank fraud or irregularity, decides to order it.

In other words, while under the presidential decree, one must have an examination of the entire affairs of the bank, under Section 25 of the bill, a specific bank deposit can be inquired into by the Monetary Board.

In other words, an individual's bank deposit, a corporation's bank deposit not in the course of general recommendation can be inquired into by the Monetary Board.

Therefore, while there is some security in the case of PD 1792, in the case of the present Section 25, the following results may follow:

- (1) The rule of confidentiality or secrecy of bank deposits or investments will be further relaxed and there will be more further reluctance on the part of people who have money to deposit in the banks;
- (2) The new provision can be used to harass certain banks and also to harass certain individual depositors;
- (3) It can be used to leak out the amounts of deposit of a particular depositor; thus, making that depositor a possible target of kidnapping syndicates; and
- (4) It may enable a bank which gets hold of the information to pirate big depositors and investments from the examined bank.

All of these, Mr. President, will weaken our banking system and may be a handicap or a matter that will slow down or prevent economic recovery and progress of the country. Instead of relaxing, we should tighten the rule on secrecy or confidentiality of bank deposits and investments.

This can be done perhaps by providing it in this bill or providing an amendment to PD 1792. So that the effect of the CMA will be to allow general examinations of bank affairs but only making available to the examiners either the bank number accounts and the amount of deposits, and excluding from the availability of examiners the names and identity of those depositors and investors.

In this way, we do not prevent any bank examination that may be for the public good, but, at the same time, we prevent the divulging of the names of depositors and the amounts of their deposits. Thus, making it more strict, and attaining the real objectives of the secrecy and confidentiality of bank deposits.

Mr. President, another matter to which I very seriously disagree with the bill in question is Section 127, referring to the assumption of losses and liabilities by the Bangko Sentral of those which are now held by the Central Bank. This section provides, and I will try to simplify the provisions:

- (1) There shall be a determination of the assets and liabilities of the Central Bank which may be transferred to or assumed by the Bangko Sentral.

As of now, we have the information that some of the paper assets of the Central Bank are in reality worthless, and they were called actually by the Sponsor as "ampao assets." Therefore, they cannot really be considered assets; they are, in fact, losses of the Central Bank.

- (2) Any asset or liability not transferred to the Bangko Sentral shall be retained and administered, disposed off and liquidated by the Central Bank.
- (3) The Bangko Sentral shall, after the transfer of assets and liabilities, financially assist the Central Bank in the payment of its liabilities that are left to it.
- (4) This financial assistance to the Central Bank shall be by remitting 75 percent of its net profits until the CB liabilities are fully paid.
- (5) If on a yearly basis the 75 percent of the Bangko Sentral net profits are not enough to service the liabilities of the Central Bank, the Bangko Sentral shall ask Congress to appropriate such amounts as may be needed to cover the deficiency.

In other words, Mr. President, the people's money, raised from taxes, will ultimately be used to bail out the Central Bank from its losses and liabilities.

Mr. President, in all sincerity, I find it difficult to grasp the reason for this unusual arrangement.

We are setting up a body corporate known as the "Bangko Sentral." It should ordinarily start fresh and clean, starting with no obligations but only its capital authorized by law. Yet, this newly born baby is to be saddled by liabilities. It will assume from the Moribund or dying Central Bank a lot of burden. In addition, it will have to help in paying the liabilities that will be left with the Central Bank. And if its contributions for such payment is not enough, the Congress will be called upon to supply the deficiency from the pockets of Juan de la Cruz.

Look, Mr. President, the authorized capitalization of the Bangko Sentral is P50 billion, payable in three years. And yet, it is going to assume P300 billion of losses and liabilities of the Central Bank. So, instead of starting clean and fresh with a P50 billion appropriated capital, what will happen is, because there is P308 billion losses and liabilities assumed, the Bangko Sentral starting actually in the red — more liabilities than assets.

It is this strange arrangement, Mr. President, that I really cannot understand, and which has not been explained to us actually why this should be done. Mr. President, if they are just going to assume the liabilities of the Central Bank, why do we not just amend its Charter without slavishly complying with the IMF requirement of a new corporate body with all losses and liabilities hanging from its neck?

Mr. President, if we are to create a new and independent Central Monetary Authority, let it be truly new with no dragging ties with the Central Bank.

Let the Central Bank alone by itself. If it cannot liquidate its own losses and liabilities, the decent and honorable thing to do is not to cling to the neck of the new Bangko Sentral, but, if possible, to commit legal suicide by declaring bankruptcy.

Let us not expose, Mr. President, the people's money to be swallowed up by the effects of the incompetence or negligence of those who managed the Central Bank, and made that bank incur losses and liabilities which it is now finding difficult to pay.

Let us even investigate who caused these losses and these liabilities, and hold them responsible and accountable as public officials. And if there are grounds to prosecute them, prosecute them under the Anti-Graft Law.

But for the present, Mr. President, let me say, let us just erase Section 127 from this bill. I regret to state that if Sections 25 and

127 remain in this bill, I shall consider them sufficiently objectionable to force me to cast a negative vote on this bill.

Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. Thank you, Senator Tolentino.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1235

Senator Romulo. Mr. President, upon consultation with the Chairman of the Committee on Banks and with our other Colleagues, I move that we suspend consideration of Senate Bill No. 1235, the Central Bank Act.

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

BILL ON SECOND READING House Bill No. 8308 - Cigarette Tax Bill (Continuation)

Senator Romulo. I move, Mr. President, that we resume consideration of House Bill No. 8308, the Cigarette Tax bill. We are in the period of amendments.

I ask that the distinguished Chairman of the Committee on Ways and Means, Senator Ernesto Herrera, be recognized.

The Presiding Officer [Senator Aquino]. Senator Herrera is recognized.

Senator Romulo. I also ask that the Minority Leader be recognized.

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

TAÑADA AMENDMENTS

Senator Tañada. Thank you, Mr. President. My amendments are on page 2 of the bill. The first one is on line 6, after the word "PRICE" followed by a period (.), I propose that we delete the period (.) and retain the phrase "OR THE ACTUAL MANUFACTURER'S OR IMPORTER'S WHOLESALE PRICE, WHICHEVER IS HIGHER."

The Presiding Officer [Senator Aquino]. What does the Sponsor say?

So that when a person spends P1 more for a pack of cigarettes, it ultimately does not make him stop smoking. However, that translates into less money for medicine and less money for his other needs. After smoking ten packs of cigarettes, Mr. President, he would have spent P10 more. In effect, depriving his family of one kilo of rice.

Mr. President, I had quit smoking in 1987 when I decided to run for a seat in the House of Representatives representing the Third District of Quezon City. I decided to quit smoking only when I was told that I had to go through the rigors of a campaign. I decided to stop smoking because I felt that was the only way for me to survive that campaign and for me to be able to muster enough stamina to survive the rigors of a career in politics. Even food tasted better after I had quit smoking. And I wish, Mr. President, that people would stop.

However, the reality is, that people are not just going to stop. Again, as I mentioned earlier, it is also an increase in the campaign or in advertising expenditures by those who manufacture cigarettes.

This being the situation, increasing taxes for cigarettes is really increasing taxes that the poor will have to bear.

Mr. President, the wealthy could afford increased taxes and many of those who can afford purchase their cigarettes from the Duty Free Shops. Right then and there, they are duty-free.

So that this being the situation, I find it extremely difficult to cast an affirmative vote.

On the other hand, I realize, Mr. President, that the government is, indeed, pressed for resources, and perhaps this could be a way that this gap could be bridged.

I would like to express an appreciation for the fact that a percentage of the proceeds of these taxes would go to a health insurance program, but more specifically, Mr. President, perhaps, it can be considered that 20 percent of that revenue should go to the research and to actual paying or supporting medical expenses caused by cigarette smoking-related diseases.

I vote *Yes*, Mr. President, to this measure. But I would just like to give that explanation to enable our people to understand that this is not simply increasing revenues for the government. It will also mean decreasing spending money or disposable income for our people since other efforts to make people stop smoking are not under way.

Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. Thank you, Senator Coseteng.

SUSPENSION OF THE SESSION

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

It was 6:10 p.m.

RESUMPTION OF THE SESSION

At 6:12 p.m., the session was resumed.

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

CONFERENCE COMMITTEE ON HOUSE BILL NO. 8308 (Cigarette Tax Bill)

Senator Romulo. Mr. President, the Members of the Senate Panel are eager to meet their counterpart so we have to name now the Senate Panel Members.

I move, Mr. President, that to meet their counterpart in the House for the disagreeing provisions between the House Bill No. 8308 as passed by the House, and Senate Bill No. 8308, as amended, as passed by the Senate, that the following Senators be included in the Senate Panel: Senators Herrera, Osmeña, Maceda, Macapagal, Ople, Tatad, and Romulo.

The Presiding Officer [Senator Aquino]. Is there any objection to these nominees? [*Silence*] Hearing none, the same is approved.

BILL ON SECOND READING Senate Bill No. 1235 — The New Central Bank Act (Continuation)

Senator Romulo. Mr. President, I now move that we resume consideration of Senate Bill No. 1235.

We are in the in the period of *turno en contra*.

I ask that for the second *turno en contra* speech, we recognize the distinguished Gentleman from Manila, Ilocos Sur and Laguna, Senator Ernesto Maceda.

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

TURNO EN CONTRA

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

It pleases us and reassures us no end that the distinguished other Gentleman from Manila and Rizal, the well-respected

Senator Arturo M. Tolentino, had decided to take the Floor on the first *turno en contra* speech.

It is not very often that we have this privilege and we certainly associate ourselves with the views that he has so succinctly, clearly and in a scholarly fashion, espoused specially on the aspects of the confidentiality of bank deposits.

Mr. President and distinguished Colleagues, allow me, first of all, to thank all of you for allowing this humble Senator from Sampaloc, the same district as Senator Tolentino, to have the Floor in spite of what seems to be — again, agreeing with Senator Tolentino — indecent haste in passing the bill creating a Central Monetary Authority, otherwise known as the Bangko Sentral.

There is only one point I wish to make, to begin with. Should the bill on the Central Monetary Authority be passed in its present form or alternatively in the House version, because we can never predict what will happen in the Bicameral Conference Committee, this Chamber shall be party to another scam pulled against the Filipino people.

This shall be one of the biggest swindles in our whole tragic history. The sheer magnitude of Central Bank losses that the Authors of the proposed bills wish to pass on to our suffering countrymen, far surpasses the grandest estimate of the wealth plundered by Mr. Marcos in the course of his kleptocracy.

The incompetence, the ineptitude, the bad faith, the fraud, the greed, the rape of our treasury, the duplicity of government officials, all past effort to mislead and misinform our people — all of these shall be quietly swept under the rug. The many crimes that cry for justice shall be plowed under and condoned for the sake of clearing the books. So much culpability shall be pushed behind the shelves in order to please the International Monetary Fund, so that they will grant us fresh loans that are in themselves insufficient even to meet our interest payments on the old ones.

Mr. President, and distinguished Members of this Chamber, I shudder at the vulgarity of this ploy. I am outraged by the fact that otherwise sober men will subscribe to this scam that will retard our growth and bring untold hardship on our already suffering people.

I will, therefore, insist that I will not be a party to this conspiracy to defraud 65 million Filipinos, to rob the next generation of their joy and good life and to sacrifice our last chance for economic recovery, so that those who plundered the nation may enjoy their loot and their property in peace.

Mr. President, the bill before us is a scandal of indescribable proportion, and I shall proceed to explain why.

Mr. President, the establishment of an independent monetary authority is mandated by the Constitution. In itself, the idea is a sound one. It will assure us of an institutional mechanism for achieving long-term monetary stability free from political interference. This is consistent with the practice of the most advanced and dynamic economies in this age of rapid capital movement and unrestricted trade.

The great economies of Japan, Germany, and the United States of America, the only remaining superpower in the western world, rely on independent monetary authorities that assure the continuity of financial and monetary policies in spite of political changes. Such independent monetary authorities are indispensable instruments for guaranteeing the stability of exchange rates. Such stability is important in this age of transnationalized operations and the quick movement of direct investments.

But surely, Mr. President, the Constitution of the Republic of the Philippines did not anticipate — much less require — the condonation of fraud and the forgiveness of incompetence.

The bill that has been presented before us is defective in many ways. Let me show the ways.

First, the accountability of the proposed Central Monetary authority is not very clear. The bill makes mention of mandatory reports to Congress as the instrument of accountability, but it has no clear provision for a backchannel to allow feedback on policies. If Congress is in fundamental and vehement disagreement with the policies of the Central Monetary Authority or the Bangko Sentral, as it is more formally called, what else could it do besides routinely accepting a report that is routinely prepared?

Today, Mr. President, we stand witness to a great controversy involving the Supreme Court of the Philippines with the Vice-President, of course, leading the onslaught. This humble Representation, we will recall, was the first to stand up in defense of the institutional independence of the Court in the face of free-wheeling assaults on its integrity. But we will be first to admit too that the public is dissatisfied with the internal investigation that has been conducted. We cannot wish away the disappointment of the many. We are now faced with a dilemmatic situation where, on one hand separation of powers forbids us from intervening in the inquiry, while on the other hand, there is building political pressure to clean up the Judiciary.

Mr. President, we may now anticipate a parallel situation in the future as regards the Central Monetary Authority. With the way the composition of the Board is described, the broad powers accorded it, and the independence guaranteed it, what recourse do we have when a point is reached that public consensus and the Board's policies become fundamentally irreconcilable?

In his testimony before the Committee on Banks, Financial Institutions, and Currencies last January, the Central Bank Governor who has finally resigned today, Jose Cuisia, said that there are certain information that require confidentiality. He was amenable to furnishing Congress microeconomic indicators. He promised a list of what the CMA should withhold from Congress. But who makes that decision what to withhold? Is this not the tyranny of the finance managers? And yet, the public is asked to shoulder their losses when they fail.

Mr. President, there is the related matter of transparency. The problem in the recent past with the financial managers and the Central Bank has been precisely the inscrutability of their policies and the sheer absence of transparency in their transactions. For an agonizingly long period, the Chair would recall that we had no means to determine exactly how much debt the nation owed. There was, if the Chair will recall, great difficulty in documenting or getting documents on the behest loans and determining exactly who were culpable.

I do not have to repeat here the long tirade of the distinguished Congressman from Makati, the former Executive Secretary of Mrs. Aquino, Joker Arroyo, who had brought to task the newly rejected Secretary of Finance in this regard.

Our own assiduous and hardworking Colleague, the Majority Leader, Senator Alberto G. Romulo, holder of a doctorate in law from the Unibersidad Central de Madrid, in his speech delivered last March 15, described his "horror and disbelief" in watching the saga of the Central Bank losses unfold. He described the anomalies committed during the tenure of Governor Jaime Laya, resulting in the disappearance of \$1.4 billion. He named a host of officials with probable culpability for the 1983 "kiting" scam that resulted in huge losses and vastly diminished the respectability of our financial system.

Mr. President, on the day that speech was delivered, Senator Romulo failed to access a special audit report prepared ten years ago by the accounting firm of Sycip, Gorres and Velayo. There is, supposedly, a copy of that report in the Central Bank, and the Sponsor informed us yesterday that finally they submitted it to him.

In another country or with another agency of government, that report could have been easily accessed in a matter of hours or in a matter of a day or two. It is crucial in determining the extent of the fraud and identifying those culpable. But not in the case of the Central Bank.

The point I am getting at is this: "The Central Bank has a long, unforgivable history of secretiveness. It has kept secrets not only from duly elected legislators, but from the presidency as well. At many instances, it behaves like a separate republic, a

separate government loyal not to the sovereign people of this country, but only to the International Monetary Fund.

Mr. President, what mechanisms are there for transparency in the CMA bill, which we are discussing, that will assure us that this long history of great secretiveness shall be terminated — this secretiveness, this "confidentiality" which has allowed Central Bank Governors to become extremely wealthy at the expense of the people who now have to shoulder the bitter fruits of their corruption and incompetence?

What assurance do we have that the proposed Central Monetary Authority shall not conceal transactions once more from public scrutiny until the damage has become great and the loss is irreparable? Hence, 20 years from now, our successors in this Chamber will be faced with having to pay not on P308 billion, but probably P3 trillion in losses.

What guarantee do we have that while the Central Monetary Authority will indeed be independent and free from political meddling, it shall abide by democratic consensus and be receptive to the views of the people, and shall be guided not only by technocracy or Harvard Business School, principles of public finance, but by a mind and heart having real compassion, affection and care for the Filipino people?

Having read the draft legislation, Mr. President, and recalling the many instances of Central Bank secretiveness and arrogance, my fears are not calmed and my anxieties are aroused. There is no clear provision here that will securely lock the Central Monetary Authority to the general policy of transparency in government.

Instead, will the new Bangko Sentral continue to ensure that its favored clientele, the private banks that continue to double, to treble their assets, make outlandish profits while all other business sectors are losing money, laying off personnel or even closing up?

Will the Board of the New Bangko Sentral not just be another cult of secrecy loyal to the banks but not to the people?

Mr. President and esteemed Colleagues, important as the twin issues of accountability and transparency may be, they actually pale in significance to what should be the most horrendous, the most revolting aspect of this bill: the transfer to the people of P308 billion in Central Bank losses, alias liabilities, alias assets, alias "ampaw."

The total burden that shall be transferred to the National Government, loaded into our budgetary appropriations for the next years, whether it is by automatic appropriation, as in the House version or by congressional annual appropriation, as certainly will happen under our version, an estimated P25 billion annually shall be put on the shoulders of a cash-strapped government and saddled on the backs of our nation's taxpayers.

The implications are clear: There shall be less money for infrastructure. There shall be less money for economic investments. There shall be greater pressure to go into deficit-spending, and as today, at the last few days when my distinguished Brother, the Committee on Ways and Means, over and over again states: "We must pass this Cigarette Tax Bill because of the funding gap next year. And for the many years to come, we must pass another tax, we must pass another tax, because of a bigger funding gap resulting from the Central Monetary Authority Law."

Mr. President, with deficit spending, there will be less than the already scarce funds for social services. How can we add another year to our educational system? How much will that cost — P10 billion? That is the capital that we want to give to the CMA. It is even suggested to even go up to P50 billion. There will be no money for price-supports. There will be less money for job creation or other essential subsidies. We shall, for many more years to come, have inferior health services, substandard schools, power shortages, and bad roads. Thanks to all the officials of the Central Bank.

The sum of all of these is also quite clear: There shall be lower growth; there shall be higher discontent; there shall be less political stability, and there will be more poverty. The bureaucracy will continue to become even more demoralized. The public service will even be more susceptible to graft and corruption. The peace and order situation will again go into a tailspin.

If we pass this bill, we might as well send the Medium-Term Plan of moderate to high growth, dubbed pompously as Philippines 2000, that we have just transferred to the Calendar for Special Orders to the archives of the National Library. Forget it. It will be just a dream.

Passing this bill will be like shooting ourselves in the foot. This will undermine whatever sliver of hope there is left for prosperity for this generation. To all these, I ask: What have our people done to deserve this cruelty?

Mr. President, the P308 billion in Central Bank losses that the bill proposes to slap on the suffering pockets of our people did not just happen. This is not an act of God for which no one is responsible. This is not an orphan whose paternity cannot be established. This is not a woman of the night that has just disappeared.

The P308 billion in public losses represents P308 billion in private gain. This amount represents the sum of incompetent management. This amount represents the sum of bad faith. This amount represents the sum of wrong decisions and clearly questionable transactions that resulted in private gain at public expense.

There are, there should be, there has got to be identifiable persons, officials, cronies, *kamag-anak*, warm bodies who are culpable. They should be held liable for these losses, not the public. These people are the ones supposed to pay for these losses, not Mang Pandoy or Juan de la Cruz or Butz Aquino or Macel Fernandez or Vic Sotto or Christine Jacob. [Laughter]

Mr. President, these losses should not be passed on to the public, particularly at this time when we are trying to lift the economy with meager funds. At this time, even our pump-priming program has not been fully implemented.

A serious injustice shall be committed if we automatically allow these losses to be assumed by the people.

Senator Romulo in his speech, mentioned earlier, identifies the people responsible for the disappearance of \$1.4 billion in Central Bank reserves in 1983. Should they not be held culpable? How about all these people involved in what was already established, the overprinting of money, stealing of rejected money or perforated money, and so with the other things that is too long a list to detail here?

Mr. President, in the Commission on Appointments, Senator Ople raised the question of what is this new policy on cronies. And I retorted, after Secretary del Rosario had fiddled around, all these cronies could not have made the billions or the hundred of millions they did without the indispensable cooperation of the Central Bank that guaranteed their loans and assumed their liabilities against the intent and the provisions of their charter.

At the start of her term, President Corazon C. Aquino, upon the advice of finance officials, asked the Philippine National Bank, the Development Bank of the Philippines and the Central Bank to assume P147 billion in bad debts. When the PNB and the DBP began to bleed profusely because of this policy decision, the entire burden was passed on to the Central Bank. In 1986, President Aquino was in a position to ask the creditor banks to share the burden of the bad debts. They were, after all, incurred by a corrupt regime whose propensity for plunder should have been known by the creditor banks.

Instead, Aquino adopted the infamous "honorable debtor policy" and missed her chance to dramatically cut obligations inherited from a regime the people deposed precisely for its rapacity. But, considering the realities of her lack of financial background, President Aquino is not the one that should be blamed. Jobo Fernandez, Jaime Ongpin — may he rest in peace — Cesar Buenaventura, Boy "Blue" del Rosario, Peter Garrucho, this club of IMF vassals, Council of Trent bastards, as the Gentleman from Mandaluyong has suggested, the very same group that is waiting to take over again, we see them all over the

backyards of this administration to continue the very same club that does nothing better but to pay a homage and allegiance to the IMF and attend that tremendous expense and luxury, the yearly meetings of the World Bank-IMF in Washington.

It seems to me, Mr. President, after 12 courageous men in this Chamber had been able to liberate us from the economic and political subjugation of political Washington, we are still subjugated by a small Washington enclave called the World Bank and the IMF.

We are running only for 40 minutes, Mr. President. I am about one third of my speech, and I hope the distinguished Sponsor will be patient.

Included in the liabilities assumed by the Aquino administration were a number of "behest" and fraudulent loans. These loans clearly resulted in personal aggrandizement. Should the beneficiaries of these "behest" and fraudulent loans not be charged part of the losses incurred by the Central Bank?

We have identified some beneficiaries of the "behest" loans. A number of them are visible and available. Why do we allow their crimes to go unpunished?

What moral of logical imperative is there to pass on the losses to the public when some of these losses may be charged to existing corporations that took out the fraudulent loans?

By systematic misinformation, the Central Bank since 1986 was able to conceal its liabilities from public scrutiny. I have here a witness, the President of the LDP and Chairman of the Finance Committee. We heard the Central Bank in many hearings in this Hall or at Room 410. And when they first tried to pass on these liabilities to the National Government in the proposed budget of 1988 or 1989, they were telling us that losses only amounted to P37 billion. Only and suddenly with this golden opportunity they are now claiming it has suddenly ballooned to P308 billion. Though, Mr. President, the truth of the matter was, they withheld the real facts and the information when they told us it was only P37 billion.

Since 1986, the Central bank amassed losses from P18 billion to P50 billion annually. Should the Governor of the Central Bank during this period not be held accountable for the losses? And is there any provision in the Central Monetary Authority Act that states, should such magnitude of losses in the Central Bank happen, that he should be held accountable, that he should be punished, and that he should be hanged at the rafters of the Cuneta Astrodome in Pasay City during a championship PBA game?

In a column written for the *Inquirer* on December 7, 1992, Professor Victor Limlingan details how the Central Bank managed

to lose P160 billion in providing forward cover to the oil companies' importations of crude, one of whom was then headed by Mr. Cesar Buenaventura, member of the club I call the "Council of Trent." The forward cover allowed the oil companies to avoid losses caused by changes in the exchange value of the peso.

The forward cover given to oil companies need not have resulted in a loss for the Central Bank. The CB could have protected itself by what financial analysts call "squaring their position." The Central Bank could have bought forward cover for themselves from international currency traders in the same way that insurance companies cover their risks by insuring or reinsuring with foreign insurance companies. But this standard procedure was not done, resulting in massive losses.

The Central Bank could have charged the oil companies higher in arbitrage costs too. That would have reflected the real cost of money and protected the Central Bank from losses. Again, this procedure was not done.

As a participant to currency trading, the Central Bank should have "insider" information about currency changes. In spite of this, they miscalculated the currency market and invited massive losses for the bank.

Professor Limlingan, a respected AIM professor, describes these losses as a "mystery." He asks: As currency traders, why did not the Central Bank square its position? As monopolists, why did they not charge at least break-even rates? As "insiders," how could they lose so much to currency exchange rate changes?

There should be an answer to this mystery somewhere. And unless this mystery is solved, there is no justice again in passing P160 million in CB losses due to forward cover mismanagement to the public treasury.

Every time we ask, they say, "It is forward cover. Ergo, we should accept it because the whole people using gasoline benefited."

No, Sir, we certainly cannot agree with such simplistic explanation.

There are numerous accountabilities that should be settled. For sure, the public will not welcome. The bare truth is, unfortunately, for us and the administration, the public and the people will not accept this transfer of such magnitude of losses without first demonstrating to them that we have exhausted all avenues for making those responsible for the losses accountable.

It is significant and relevant to note at this time the opinion of one Armando Armas, Jr., a UNDP consultant, and I quote:

The problems of an independent CMA, conflict of interests, bureaucratic abuses, among others, are being resolved by the principle of checks and balances inherent in a democracy. In the United States, for instance, the Comptroller of the Currency, FDIC, FLSIC, 50 State Bank Commissions, and others, directly regulate and supervise their respective financial sectors in their respective areas of concerns independent from one another and even from the Federal Reserve Board. Similarly, other developed countries have separated banking, regulation, or supervision vis-a-vis monetary policy-making between independent government bureaus preferably in the fiscal department. On the other hand, although other countries empowered their central banks or their fiscal departments over these multiple functions, at least two divisions highly independent from each other are granted separate tasks of financial vis-a-vis monetary policy. The central banks and/or the finance department in many countries have various independent separate units for financial and monetary policy formulations and their respective implementations.

Within the limits of the 1987 Constitution, the Philippine Congress has a wide discretion in determining the degree of CMA independence. At the maximum, the autonomy of CMA cannot be akin to the separate independence of Church and State. At the lower level, independence of CMA cannot be equivalent to that of the Executive, Legislative, or Judiciary. Congress cannot create the Bangko Sentral unto its own image of independence. Congress, however, could legislate a Bangko Sentral independent in an administrative context such as the Commission on Elections or one operationally independent such as the Commission on Audit.

The point, Mr. President, is we could quote here so many suggestions, so many options, so many alternatives. But because of the indecent haste that we are considering this bill, three days to be exact, we are not given the opportunity to ask the Sponsor to explain all the possible options, all the possible alternatives and explain to us, one by one, why not alternative A, why not alternative B, why not alternative X, and why this particular proposal that is on the table.

Mr. President, why the obsession with establishing the CMA on the basis of positive net worth? What is important is that it is solvent.

Why transfer only liabilities and not assets? From the early '80s, the Central Bank borrowed heavily to shore up our foreign reserves and provide dollars for our importers. From 1982 to 1991, the CB's interest expense on these foreign loans added up to P92 billion. Additional losses amounting to P77 billion were incurred due to peso devaluation.

The CB also borrowed from the open market at high interest rates. This practice is epitomized by the so-called "Jobo bills" and recently, the "Joey bills." Total losses from this operation

amounted to P101 billion. Is there any assurance in the bill that we no longer shall have Jobo bills or Joey bills in the future or — I hope not — "Tito bills" if Senator Guingona becomes Governor of this new Central Monetary Authority?

In addition, the Central Bank incurred opportunity "losses due to the Bank's holding of low-yielding National Government securities as part of the deflationary policies forced on us by the almighty IMF. The CB's own estimates of losses from this amounts to P105 billion. All these losses are attributable to bad management decisions on the part of the Central Bank. The Central Bank may gradually reduce the volume of these losses by open market operations through something, of course, that the National Treasury cannot do.

And what about, I repeat, the overprinting of money as shown by the appearance of the same serial numbered bills in the 1986 elections? How about the recycling of old or reject bills at the CB printing plant? No wonder I found it so difficult to understand, Mr. President.

In 1986, several of us in the Cabinet were asking. With Marcos having brought out several pesos abroad, with the Romualdezes having submerged hundreds of millions of pesos even here underground, with the use of the same serial numbered pesos in the elections of 1986, the Central Bank tenaciously refused to demonetize the Marcos money at that time, and so contributed to further eroding our financial stability.

The point here is this: The Central Bank bears not only the moral responsibility but also the financial instrument to reduce the scale of its losses.

Why the insistence on the arbitrary, unfair, and unjust method of simply transferring such liabilities to the people? Our people will surely ask: "Why the haste in transferring the Central Bank's losses?"

The only evident reason, Mr. President, — nothing else and they have not even made a secret of it. I am really scandalized by the way these people, from Estanislao to Del Rosario, from Fernandez to Cuisia now openly admit the impositions of the IMF and actually used that very same hammer or sword over our heads over and over again — seems to be an effort to please the International Monetary Fund.

Mr. President, in return for "clearing the books" in the course of establishing a Central Monetary Authority, our finance managers look forward to being granted a \$1.4 billion load spread over the next five years. Given past experience, the approval of the loan's first tranche does not even assure us that the next tranches will be delivered on schedule without new conditionalities. That has happened over and over again. At one

time, it has increased the NAPOCOR rates; at one time, it has imposed an import levy; at one time, it was liberalization of so many imports. There is always something new before they release the next tranche, Mr. President — new conditionalities.

The \$1.4 billion loan translates into only about P7 billion annually. That money is hardly enough to cover our payments for interests on prior borrowing.

In order to access what is in fact a miniscule loan — and sometimes the amount that has been sold to the President which the President unfortunately almost automatically mouths to us, and he did this even last December yet and he did this last week or two weeks ago — we cannot get the pending \$450 million loan from the IMF unless we pass this CMA bill. This time it is even as low as \$450 million first tranche.

In order to access, as I said, what is in fact a miniscule loan, here we are preparing to transfer to the backs of our taxpayers P308 billion in Central Bank losses.

There appears to be, without debate, no sense of proportion here, Mr. President — no sense of proportion. We are asking our people to sacrifice so much for so meager a return. Is the P7 billion annual borrowing from the IMF so dear to us that we are willing to postpone economic recovery and growth so that we can have it?

There does not seem to be any sense in this. Will the proponents please explain to our people why they must bear an added burden of P308 billion so that their government can borrow an additional P7 billion yearly for the next five years?

Some of those who have argued for this bill mislead our people by saying that whether the losses are charged to the Central Bank or to the National Government, our people shall be paying for them anyway. This argument refers to an irregular practice where government deposits money with the Central Bank at zero interest, while the CB lends out the same amount at commercial interest rates. Government loses money in this way. Actually, the Central Bank is being subsidized even if there is no item in the national budget earmarked for such subsidies, therefore, directly bypassing the congressional power of the purse, and this is one of the tragedies of this situation, Mr. President.

Instead of using this irregular practice to argue that the public is paying for the CB's losses anyway, the irregular practice should be stopped and the Central Bank should be made to account for its own losses.

Cut the deception, Mr. President. Government deposits with the Central Bank at zero interest rates undermines the Congress' power over the purse-strings. It takes away interest earnings that

could have been used for social services. The public is being defrauded by this practice.

Instead of using this as an excuse to make the public accept the immoral transfer of losses and liabilities, the zero interest deposit should be exposed for what it really is: an act of fraud.

Mr. President, esteemed Colleagues:

The issues of accountability and transparency are resolvable if a little more imagination is used in crafting this bill.

So too, is the issue of transfer of liabilities resolvable if we cut through the duplicity and put our people's interest above all else.

Economists critical of the transfer of liabilities provision in the CMA bill have offered a compromise solution which may be sound.

Transferring the Central Bank losses and liabilities to the National Government will narrow our options to spending less and taxing more. We shall be painting ourselves into a corner, inviting the wrath of our people. Both methods will cripple our economy, maintain the economic stagnation we now endure and preserve the poverty gripping the masses.

When government incurs a deficit, we have no option but to raise taxes and cut spending. This is not true of the Central Bank. The CB can, to the use of finance analysts themselves "monetize" its deficits. This means putting the use of government resources that were put to sleep in CB vaults because of tight IMF ceilings on current money supply. These resources, injected back to the domestic market, will prompt growth in the economy.

Mr. President, I submit, we should postpone the transfer of liabilities to the national government in any form. Given our tight budgetary situation and our sluggish economic growth, transferring the liabilities at this time will only result in untold hardships for everybody.

The bill and the interpellations have not clarified how the new Bangko Sentral can make money to pay its losses. I have insisted and continue to insist that the scheme for a Monetary Board looking for a creative way to raise money or to make money is a mirage and what will happen is that Congress will have no choice but to appropriate more and more funds for the new CMA for the many years to come.

I repeat, that will mean higher deficits, new taxes or more foreign loans.

Mr. President, while postponing the transfer of liabilities, we should insist that the burden for the bad Marcos debts be shared

equally by the creditor banks and the borrower country. Many of the debts incurred during the Marcos regime involved anomalous transactions that should have been known to the banks. In the case of Westinghouse, for instance, the banks should have known the deal was anomalous. Yet government has shouldered the debt even as we have filed suit claiming that the deal was the result of bribery. We have pursued a contradictory strategy on this case.

Before the liabilities are eventually assumed, private borrowers of bad debts which were assumed by the National Government should be investigated and, after guilt is established, be held responsible for payment. We should be able then to reduce the dimensions of the losses and liabilities by enforcing fair play. Prosecution of those who reneged on their debts is the course dictated by justice. Our people will never forgive us for agreeing to shoulder debts that others truly owe.

Rather than lie supinely before the unjust demands made on us by the IMF, government must convince the international finance technocrats on the wisdom of deferring or postponing the transfer of liabilities. In the interim, the IMF must be convinced to relax its monetary ceilings so that the CB can release more money into the market, perk up growth and ease the tight economic situation. A more robust economy will widen the tax base, increase revenues and allow us, eventually, to absorb the liabilities at that time in the future, not today, Mr. President.

The bottom line is that this is the worst time to transfer the liabilities of the Central Bank to the National Government. Doing so could be fatal to the economy. Doing so runs against all logic. Doing so goes against the grain of our very sense of what is just.

"Clearing the book" in this case, will involve not only the accounts of the Central Bank. We shall also be clearing the book of those who plundered our nation as well as those who purported to govern it with so much incompetence. A great act of injustice shall be inflicted on our nation as we proceed to transfer the liabilities of the Central Bank and load it into our meager national budget. A great injury shall be inflicted on our people who are now struggling to survive the face of the adversities presented by inept governance.

Mr. President, let us not test the powder by playing with sparks.

Our people do not deserve this unholy act that the legislature, at the instance of foreign creditors, is poised to deal with. This bill before us is a joint product of a serious failure of the imagination, a lack of moral courage, and a defective sense of what is good for our people.

Ladies and Gentlemen of this otherwise respectable Chamber:

Many, many years ago, a political theorist name Jeremy Bentham introduced the dictum that is to guide modern governance. Government, he said, exists for the greatest good to the greatest number. That has been since then the standard of legitimacy of government.

The bill we are asked to consider today, inflicts the greatest harm to the greatest number. It injures not only our fragile economy; it also threatens to undermine the legitimacy of government.

This bill could be the pivot of a tragic turning point in our nation's life. If our people decide that the government exists not for them but against them, the door to a new season of turmoil shall be opened wide.

Mr. President, I close my exposition with a prayer that my dear Colleagues will review this bill with an open mind, study it further, and assert the independence of the Senate by opting not to pass it with indecent haste. Three days is just not enough to close the loopholes in this bill. It is not yet ready and ripe for a vote. Too many questions are still unanswered. Too many answers are still unclear. Too many other options have not been considered. Too many dangers still lurk in the recesses of its provisions.

Mr. President, I respectfully insist that this bill is not ready for a vote today...certainly not even for 450 pieces of silver.

Thank you and good evening, Mr. President.

Senator Coseteng. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Coseteng is recognized.

Senator Coseteng. Thank you, Mr. President.

Will the distinguished Gentleman from Sampaloc and San Esteban, Ilocos Sur, yield for a few questions?

Senator Maceda. Willingly, to the distinguished Lady from Janiuay, Iloilo, and Negros Occidental.

Senator Coseteng. Correction please, Mr. President. It is Pototan and Iloilo City, and Hinigaran, Negros Occidental.

Senator Maceda. I stand corrected, Mr. President. I was afraid to pronounce the first word because my voice is already hoarse and I might mispronounce the word "Pototan."

Senator Coseteng. Ginoong Pangulo, ang napakinggan po nating binanggit ng Kagalangalang na Senador sa loob ng isang

oras at labinlimang minuto ay nakakadiri at nakakakilabot kung ito ay katotohanang mangyayari sa kasalukuyan. Sapagkat ito po ay pagbobotohan ng Senado, dapat lamang malaman ng ating taong-bayan ang tungkol dito. Sapagkat ang dalawang linggong iniukol sa pagdedebate tungkol dito ay hindi sapat upang malaman ng ating mga kababayan kung ano talaga ang isyung ito.

Unang-una po, nakapagtaka na ang ating pamahalaan ay hindi nakokonsensiya at hinahangad pa na ang taong-bayan ang siyang sumalo o magbayad nitong lugi ng Central Bank na P308 bilyon.

Nakapagtataka, Ginoong Pangulo, sapagkat sa pagkakaalam ng pangkaraniwang mamamayan, katulad ng inyong lingkod, itong Central Bank ang siyang nag-iimprenta ng pera, nangangasiwa sa mga bangko, nagbubukas at nagsasara ng bangko. Ang lahat po niyan ay pupunta sa Central Bank.

Ngunit ngayon po, animnapu't dalawang milyong tao ang nakatang lamang habang binabanggit ni Senador Maceda ang mga katotohanang nakapaligid sa panukalang batas na ito, at tila utang at hindi pagkain ang ilalagay natin sa bibig ng ating mga mamamayan.

Ginoong Pangulo, lagi pong sinasabi ng ibang pinuno na nakakahiya kung hindi tayo magbabayad ng utang. Maaari bang malaman sa Kagalangalang na Ginoo mula sa Sampaloc at San Esteban, Ilocos Sur, kung bakit nakakahiya itong hindi pagbabayad ng utang samantalang hindi tayo nahihya sa ating mga mamamayan na siyang papasan ng utang na ito?

Senator Roco. Inquiry, Mr. President.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized.

Senator Roco. If I am not mistaken, Mr. President, under the Rules — and I am sure the Gentleman agreed with me yesterday — when the Gentleman sits down, he no longer yields to questions. We have seen the Gentleman sit down. I know he is not so ungentlemanly as to refuse to yield to the Lady, but since he has, in the words of Senator Ople, designated himself as the guardian of the Rules, may we now ask that he comply with the Rules. And that, therefore, the period of interpellations can no longer continue.

Senator Maceda. Mr. President, technically, I am not sitting down because I am in front of the microphone and I have not gone back to my seat. I was waiting for the Gentle Lady to finish her question, and before she finished her question, I arose to answer. I think this is a technicality that can be waived if ever the Gentleman is correct.

Senator Roco. Because the Gentleman arose before a Lady, we will withdraw the question.

Senator Maceda. Yes, Mr. President. Thank you and I will let the Gentleman know every time I arise before a lady.

The Presiding Officer [Senator Aquino]. Thank you for withdrawing, Senator Roco. Senator Maceda will please commence the answer.

Senator Maceda. I did not see Senator Roco withdraw, Mr. President.

The Presiding Officer [Senator Aquino]. He withdrew his objection.

Senator Maceda. I see. Thank you very much.

Senator Roco. In fact, Mr. President, it was not my intention to withdraw. But the intrusion may not have been welcomed by the Gentleman.

The Presiding Officer [Senator Aquino]. Intrusion was with his permission. So, Senator Maceda may proceed.

Senator Maceda. I guess the very simple answer for that is, hindi tayo nahihya dahil tinatanggap natin ito. Wala tayong choice, na kailangang sumunod sa IMF. Para doon sa hindi nahihya, ang talagang course of action nila ay tanggapin kung ano ang sasabihin ng IMF. Parang, wika nga, may busal sa bibig at sa ilong, sunud-sunuran na lamang sa IMF.

Senator Coseteng. Mr. President, it is undisputed that the Gentleman from Sampaloc and San Esteban is considered the most traveled Senator, having reached the farthest points and remotest points of our country.

May I find out from the Senator what he has observed as a common denominator in towns like Dasol, Infanta, Balungao in Pangasinan; or Cabagan and Alicia in Isabela; or Lagangilang or Bucay in Abra; Suyo, Cervantes in Ilocos Sur; Pasukin or Pagudpud or Dingras in Ilocos Norte; Atimonan, Polillo in Quezon; or Llanera, General Tinio in Nueva Ecija; Sta. Praxedes or Igib in Cagayan; Goa in Camarines Sur; Usami, Laguna; Alitagtag, Batangas; Naujan or Pinamalayan in Mindoro; Bacacay in Albay; Castilla in Sorsogon; Gasan or Torijos in Marinduque; San Jacinto in Ticao Island in Masbate; San Remigio in Antique; Igaras or San Joaquin, Sara, Leon, Alimodian, Iloilo; Candoni in Negros Occidental; or Bacun, Negros Oriental; Siargao Island, Surigao; Medellin in Cebu; or Barile or Boloon, Ginatilan in Cebu; or Sikatuna in Bohol; or Basey, Western Samar; Taf, Eastern Samar; Bobon, Northern Samar; or Tanauan in Leyte or Carigara or Albuera in Leyte; Margo sa Tubig in Zamboanga Sur or Molave in Zamboanga Sur; or Tampakan, Tantaran in South Cotabato; Kiamba in Sarangani or San Salvador in Misamis Occidental; Piquit, North Cotabato; Cabadbaran in Agusan Norte;

or Bayugan in Agusan Sur; or San Francisco in Agusan Sur; in Imauab, Asuncion or Capalong in Davao del Norte; Kidapaoan in Davao Sur; Malita in Davao Sur; Banay-Banay in Davao Oriental or San Isidro in Davao Oriental. Mr. President, the list will go on and perhaps we will spend longer than the speech of the Gentleman if we continue.

But the question I would like to reiterate is, what is the common denominator in all these towns that it is so comfortable or convenient for the government to just want to pass on these heavy losses for people to bear?

Senator Maceda. Mr. President, there are two common denominators in all those towns.

Firstly, they tell me that Senator Nikki Coseteng has been there and they will vote for her in the 1995 elections.

But, secondly, the other common denominator is poverty. They are all very poor towns.

Senator Coseteng. Ginoong Pangulo, ang isa rin yatang wala sa bokabularyo ng Central Bank officials ay iyong full disclosure. At lagi pong binabanggit iyong national security kung sila ay tinatanong, hindi lamang iyong CB officials kundi maging Finance officials, kung ano na ang katayuan at ano ang nangyari at itong P308 bilyon ay papasanin ng mga tao, at kung paano minaniobrang nagkaroon tayo ng mga "ampaw" transactions at ang naging resulta, ito ay papasanin ng tao. Ano po kaya ang dahilan kung bakit ayaw banggitin o ayaw ilantad sa ating mga kababayan ang katayuan o ang naging dahilan ng katiwaliang ito?

Senator Maceda. Sapagkat ang situwasyon po ay so indefensible; hindi nila madedepensahan kung kaya ayaw nilang ihayag o magkaroon ng full disclosure iyong mga facts. Sapagkat kapag inihayag nila lahat iyong mga facts, makikita na karamihan sa kanila ay kasabwat sa pagnanakaw sa gobyerno na nagresulta sa pagkawala ng malaking halaga sa ating bansa.

Senator Coseteng. Ginoong Pangulo, kung sakaling sila ay mapapatunayan o makikitang naging kasabwat dito sa wholesale na pangho-holdup, ano naman po ang gagawin natin? Marahil ay maaaprubahan itong CMA bill. Dahil dito, ano po ang mangyayari doon sa naging kasabwat at naging dahilan kung bakit itong kahirapan ay hindi masugpo?

Senator Maceda. Ang akin nga pong tesis, kapag pinasa natin ito ay para bang hindi lamang natin nililinis ang libro ng Central Bank kundi nililinis at pinatatawad na rin natin ang mga kasalanan ng mga taong ito. Kaya, sa palagay ko, huwag muna nating gawin ang clearing na iyan at ang ating atupagin ay iyong pag-iimbestiga at pagpa-file ng mga kaso sa mga taong ito. At nagtataka nga ako. Itong bagong administrasyon, iyan ang

sinasabi. Si Presidente Aquino, iyan ang sinabi — Presidential Decree No. 1 or Executive Order Nos. 1, 1-A, 14, PCGG. Pagpasok ni Presidente Ramos, iyan ang sinasabi: "We will investigate all the behest loans." Gumawa siya ng isang task force pero hanggang ngayon ay wala pang nangyayari. Nagkakaaregluhan yata pagdating sa bandang huli.

Senator Coseteng. Ginoong Pangulo, tila ba nawawalan na ng pagtiwala ang taong-bayan sa pamahalaan, sa iba't ibang sangay ng pamahalaan. Nitong mga nakaraang buwan ay nakita natin kung paano, halimbawa, ang mga pulis ay nabiktima nitong kawalan ng tiwala. O kaya, halimbawa, ay pumasok tayo hanggang sa hantungan ng Korte Suprema na kung saan ay nagkakaroon ng mga anino sa ibabaw ng reputasyon ng ating mga huwes.

Ngayon po, itong pagbubunyag ni Senator Maceda ay magbibigay din ng kaalaman at lawak ng kaisipan sa mga isyung may kinalaman sa ating salapi o sa ahensiyang nangangasiwa sa ating salapi. Ano po naman ang maaaring maging epekto kung pababayaan na lamang natin, halimbawa, ang mga kasalanan noong nakaraan at sa pagbubuo ng Central Monetary Authority ay binebendisyon natin halos ang mga gumawa ng mga katiwaliang ito? Ito ba ay magtutulak sa atin patungo sa pagiging NIC sa taong 2000?

Senator Maceda. Sa palagay ko po ay hindi. At ang isa pang epekto nito, iyong mga bagong hahawak ng bagong upisinang ito ay hindi matatakot na gawin din ang ginawa ng kanilang mga hinalinhan o predecessors, sapagkat nakita nila na wala namang nakulong, wala namang nangyari. At ang katotohanan nga, halos lahat ng mga opisyal ng Central Bank sa panahon ni Marcos hanggang ngayon, ay napakayaman na kung kaya hindi ninyo sila makikita, pati na ang mga pamilya nila, mga anak nila. May mga itinayo silang bangko, negosyo, malalaking mansiyon at mga bahay sa iba't ibang lugar. At sa nakikita nga nitong mga hahawak o papalit dito sa ating Central Bank, hindi sila mag-aatubili na kung may pagkakataon ay gagawa na naman ng mga kalokohan, sapagkat hindi naman nakukulong iyong mga naunang gumawa ng kalokohan.

Senator Coseteng. Maraming salamat po, Ginoong Pangulo, at maraming salamat din sa Kagalangalang na Ginoo mula sa Sampaloc at San Esteban.

Senator Maceda. Maraming salamat po sa Senadora na isa sa pinakamagandang artista rito sa ating bansa.

Senator Romulo. Mr. President, will the Gentleman yield for a few questions?

Senator Maceda. With some trepidation, Mr. President, because I concede that the Gentleman knows more about the subject than I do, but I will try to answer his questions.

Senator Romulo. Thank you for the compliment, Mr. President.

The Gentleman mentioned in his speech about the P308 billion public losses where there are identifiable persons who are culpable and that they should be held liable for these losses.

I join the Gentleman, of course, in this desire that those who were responsible for the pillage and plunder should be brought to the bar of justice.

My question, Mr. President, is that under the bill under consideration, these culpable persons are still liable and we can still proceed against them. That is why I have proposed that we should not assume — I mean the National Government and the new Central Bank — at all the liabilities of the old Central Bank.

Would the Gentleman agree with this, that we can still proceed against them under this bill that we are proposing?

Senator Maceda. I certainly agree with the Gentleman, Mr. President. However, I have this fear that if the new Central Bank is given sufficient capital, is given this brand-new start, they might not give this a high priority. Kung iyong old Central Bank na kailangang-kailangan ang pera, and common sense dictates na kung idedemanda nila ang mga taong iyan na identifiable at makarecover sila ay iyon ang parteng solusyon sa problema ng old Central Bank, but they never did it. Ngayon pa kaya, Mr. Senator, kung ang bagong grupong ito ay sabihin na, "There is too much detail, too much effort. Anyway, kalimutan na natin iyan at asikasuhin na lamang natin ang paggamit ng bagong kapital na ibinigay sa atin."

Senator Romulo. Kaya po siguro iyong nabanggit ko kahapon nang ako ay magtanong, we should see to it that those who are named to the new Monetary Board of the new Bangko Sentral including, of course, the governor and the top officials, that they should be new faces, new members of the Monetary Board so that there will be no cover-up. That is precisely my fear why I brought up that matter yesterday, that if we are lax and we allow again those who were responsible for the pillage and the plunder to again dominate the new Central Bank, to be named to the new Monetary Board, it would be against their self-interest to pursue the mismanagement, the incompetence, the pillage and the plunder.

That is why I believe, Mr. President, that one of the keys is the appointment to the top of top officials of the new Bangko Sentral, including the members of the Monetary Board. Would the Gentleman agree with that, Mr. President?

Senator Maceda. I would agree with the Gentleman, Mr. President, and I would just expand his definition of those who

were responsible for the plunder being brought back again. I would expand the definition to not only themselves but *iyong kanilang mga kabarkada, iyong kanilang mga business associates, iyong kanilang mga kamag-anak, mag-aambisyon na namang bumalik iyan diyen. Sana*, if ever this bill is passed, there should be some care. It is one mold, as I said, one club, one specific image or personality profile. *Iyan ay magkakasama at kilala natin. Iyon lamang.*

We are referring not only to specific persons who did wrong in the past who should not be brought back, but their friends, business associates, relatives, classmates, roommates, their type of people who just belong to one mold and one club should not be allowed to hold these positions and serve these people again.

Senator Romulo. *Kaya po siguro maganda iyong proposal na narito sa proposed bill na the staff officials, the governor, and I understand the Members of the Monetary Board should pass muster with the Commission on Appointments upang maisa-isa natin iyan, ma-scrutinize natin, nang sa ganoon we can assure ourselves na hindi lulusot ang mga iyan kung sakali mang makalusot sila sa Executive. Hindi po ba?*

Senator Maceda. *Maganda po iyan, ngunit ang ikinatatakot ko lamang ay magkakaroon ng constitutional challenge sa Supreme Court. Ang gagawin ng Ramos administration ay, "Sige, i-appoint ninyo ito. We will wait for the Supreme Court decision. Kung matatalo tayo sa Supreme Court, we submit it to the Commission."*

That is why I was proposing, with or without a formal Commission on the appointment process, the leadership of this Chamber must insist on an informal consultation and confirmation process. *Dapat ngayon pa lamang bago natin ipasa ang bill na ito kung papasa man ito ngayon o bukas*, there should be an understanding that either the Executive accept this provision and they will not bring it to the Supreme Court or that if they will bring this provision to the Supreme Court as a matter of principle, there should now be a gentleman's agreement with the Executive Department that before anybody is appointed to the Monetary Board, there should be consultation with the leaders of Congress in an informal confirmation type of proceeding.

Senator Romulo. *Maganda po iyan. Siguro, habang nagkakaroon ng Bicameral Conference Committee, isa ito sa dapat pag-usapan not in the bill dahil hindi natin puwedeng ilagay ito sa bill. Iyan ang sabi ng ating kaibigan na si Senator Roco. But the appointing power should be made aware that there is grave danger that if they are lax and they again allow those who were part of the gang that perpetrated this pillage or plunder or as our friend Senator Maceda is saying "part of the club" dahil may club iyan, ganoon na naman ang mangyayari diyen. Kakalimutan na iyong nangyari noong nakaraan at habang they are enjoying the*

fruits of their ill-gotten wealth *ang mga tao naman ay naghihirap kagaya ng sinabi ni Senator Coseteng. Sila naman ay — ano ba iyong enjoying the —*

Senator Maceda. Nagtatamasa.

Senator Romulo. — *nagtatamasa at ang bayan ay naghihirap. Siguro, sa Conference Committee, tayo ay magsumikap that this should be made known to the President and the appointing powers.*

Senator Maceda. Sa panig ko po, nais ko lamang idiin na wala akong kakilala, wala akong kaibigan, at wala akong intensiyon na magrekomenda diyan. Ang gusto ko lamang makita ay hindi barberong taga-Dagupan, hindi panaderong taga-Davao ang ilagay diyan. Baka ganoon ang mangyayari, lalo tayong malilintikan.

Senator Romulo. Kung taga-Lingayen po?

Senator Maceda. Aywan ko po kung may mga barbero pa at panadero sa Lingayen. Sa palagay ko nandito na sila lahat sa Maynila.

Senator Romulo. Kung ang mapipili po ay ang kaibigan natin kagaya ni Senator Guingona, would this fit our idea of new fresh wind who will not be tainted and corrupted by the past and who will remain true and keep faith with the Filipino people?

Senator Maceda. Sa palagay ko po, sa bagay na iyan, ang unang-unang rekomendasyon ng Senado ay dapat manggaling sa Pangulo ng Senado na si Mr. Angara.

Senator Romulo. Salamat po. May isa pa pong bagay na sinabi kayo. "The forward cover given to oil companies need not have resulted in a loss to the Central Bank if the CB could have protected itself by what financial analysts called "squaring their position."

Bakit kaya hindi po ginawa ito? Is it because of incompetence? Is it because they were so used to what they had been doing before, that they had the arrogance of power, that whatever they did, they considered it as the law of the land? Or is it because there is collusion for material or profit, that is why they allowed this to happen? Can the Gentleman give us some enlightenment?

Senator Maceda. Palagay ko po iyong pangalawang dahilan ang mas logical. Ako po ay naniniwala sa lahat ng ito. Alam naman ninyo, noong araw maski kumuha ka lamang ng kota sa halagang isang libong bag ng arina diyan sa Central Bank, kailangan magbayad ka sa mga opisyal ng Central Bank. If the Gentleman remembers, there was even the flour quota scandal at

the Central Bank, also, the imported fruits quota during Christmas. Kaya wala namang nangyayaring malaking transaksyon na hindi sila kasabwat. Of course, ang excuse nila ay utos daw ni Marcos o utos ng Presidente. There is some truth to that, pero ang paniwala ko, kahit na utos pa ni Presidente, pagdaan sa kanila, mayroon pa rin silang kaparte.

Senator Romulo. Mabuti po at nabanggit ninyo iyan sapagkat noong nakaraang panahon, alam ko iyong mga estudyante na humihingi ng foreign exchange, halos hindi sila makakuha. Pagka may sakit na kailangan pumunta sa abroad, halos hindi sila makakuha, ngunit pagka isang Ver o isang Romualdez o isang crony, madali. Ito ay binabanggit sa akin ng mga taga Central Bank, kaya hindi ako sang-ayon na lahat sa Central Bank ay masama sapagkat marami diyang mahuhusay. Binanggit sa akin na pagka iyang mga pangalang iyan, maski na ano, walang kuwestiyon.

Iyan ang kasalanan ng mga dating namumuno sa Central Bank, including the former Central Bank Governor who allowed all of these things to happen — that for students, for poor people, for people who are sick, they are hardly able to get any dollar, but when it comes to a Ver, when it comes to a Romualdez, when it comes to a Marcos or a crony, it was open season for them.

Sang-ayon ako kay Senador Maceda na hindi natin dapat makalimutan iyan, and those who were responsible not only for the plunder, but for the mismanagement and misuse of our resources, should not be forgotten, and they should be brought to the bar of justice, and hopefully behind bars.

Senator Maceda. Ako po ay natutuwa na sa wakas ay nailabas ninyo ang inyong tunay na damdamin.

Senator Romulo. Finally, kaya naman po ang sabi natin, sang-ayon po ba tayo para hindi na maghirap ang bayan? Sapagkat tingnan ninyo ang consolidated public sector deficit. Kalahati, sobra ng kalahati ang nanggagaling sa Central Bank. There were years when without the Central Bank deficit, surplus po. Kaya nga ang sabi natin — at mabuti naman ay nabanggit iyan ni Ka Turing Tolentino — ito namang old Bangko Sentral bangkrupt na iyan. The whole world knows about it. It is in the World Bank report. It is in the IMF. At saka painted po iyang mga liabilities na iyan, and most of those debts or liabilities are interests, kaya iyong principal nabayaran na nang matagal iyon. Nagtataka nga po ako kung bakit mayroon pang proposal na these liabilities should be assumed by the National Government.

Kayo po ba ay sang-ayon na no liabilities should be assumed either by the National Government and by the Central Bank, and that, in fact, the old Central Bank should be considered as bankrupt or insolvent with all the consequences that it entails?

Senator Maceda. Sa subject matter pong ito, sang-ayon ako sa panukala ninyo sapagkat alam kong ilang taon na ninyong pinag-aaralan ito.

Senator Romulo. Salamat po, at hanggang doon na lamang po.

Wala na po bang ibang magi-interpellate?

Senator Biazon. Mr. President.

Senator Maceda. Mayroon po.

Senator Romulo. Kaya uupo na po ako. I ask that Senator Biazon be recognized.

The Presiding Officer [Senator Aquino]. Senator Biazon is recognized.

Senator Biazon. Thank you, Mr. President. Will the Gentleman from Sampaloc, Laguna and Ilocos Sur yield for some questions?

Senator Maceda. Willingly, Mr. President, to the Gentleman from Makati and Ilocos Norte.

Senator Biazon. Mr. President, for the last weeks, coming from a profession that was not usually exposed to this kind of thing, I was trying to listen very intently on the intense debates going on on the Floor so that I might be able to put myself into a position to wisely render an informed judgment.

It seems that the Central Bank is in a mess and, probably, because of this the country also is in a mess and we are looking for a new one that should give us a hope for tomorrow. As I read the proposed law and as I listen to the intense debates, a question is raised in my mind: What is wrong? Is it the institution of the Central Bank? Is it the structure? Or is it the people who run it?

Senator Maceda. Mr. President, if I may use an example that the Gentleman would probably be familiar with, if he asks what is wrong with the PNP? Is it the people? Is it the structure? What is wrong with our political system? We want to change from presidential to parliamentary.

I have always maintained that all our structures are basically good structures. That there is still basically something wrong, the deterioration of the sense of public service or honesty that the people, at all levels, not only in government but even in the private sector, there seems to be a deterioration of public morals and public character.

Senator Biazon. Therefore, Mr. President, as I see it in this proposed law, there really is not much change in the old

organization of the Central Bank and the proposed new one, except maybe for certain items such as to answer the dictates of the Constitution on the question of independence, we changed the ratio of civilians, private sector and government officials in the composition of the Board and also, probably, we are looking at certain changes in the qualifications of people who could be appointed into the Board.

For example, we added two characteristics that we are looking for in addition to citizenship, moral character and integrity, we added two values such as probity and patriotism. Two abstract values which are, indeed, very difficult to identify in an individual. So, I go along with it. But on the other hand, in the structure we have increased or included or added two powers that were not there before. One is the quasi-judicial power that is now definitely defined in the proposed law. And the other one, of course, is the power to appoint and define the emoluments of a certain level of the personnel who will compose the new Central Bank.

Mr. President, the question is: In all of these basic fundamental changes that are now being introduced, does the distinguished Senator see that the problems that we see now with the old Central Bank will have even a chance of being resolved?

Senator Maceda. Mr. President, I will give the distinguished Gentleman a very candid answer. So that our friends here in the Central Bank would not feel grossly alluded to or discriminated against, I will say that the most corrupt office right now is the DPWH. Probably, before the revamp, it was PNP. *Hindi na nagkakalayo iyan.*

I have always maintained that it is better to have almost a radical surgery and change almost everybody. I would support, as this time, an abolition of the Department of Public Works and Highways after the lahar scam investigations. But if we create a new Department of Infrastructure and we allow substantially all the personnel of the old DPWH to transfer to the new Department of Infrastructure, *palagay ko ay wala ring pagbabago.*

We have tried this and they are trying it now in the new Department of Energy and NAPOCOR. We gave the Department Secretary, both in the Department of Energy Act and in the Emergency Powers Act, the right to reorganize and, in effect, lay off as many people as they want in the NAPOCOR and in the Department.

That is why I was raising this point. In the process, *mayroong magagaling, mayroong mga honest na matatamaan.* But if we really want to make this new office, whether it is the new Department of Infrastructure, whether it is the new PNP, or whether it is the new Bangko Sentral, we basically have to start with a new set, not only of officers, but at the top all the way down. New blood, preferably. Because once we allow the majority of

the old organization, it would be long before the old-timers or some of the old-timers, if we want to be fair, will not infect the new ones in the new Monetary Board.

I have been in so many departments and it is really very difficult to get over established cliques — let us not use the word “syndicate” advisedly — in every office. That is the problem. And that is true, of course, even in the PNP.

Senator Biazon. Mr. President, from what I hear now, from what I have been hearing the last week, therefore, I can safely say there is not an assurance that what we are replacing Central Bank with is not going to assure us of success.

Senator Maceda. Mr. President, in simple language, what we are hoping that will happen if not now but sometime in the future, is to get a Central Bank Governor and/or Monetary Board that will have the patriotism, if that is the word, and the probity to stand up to the IMF, to begin with. That is a minimum qualification.

I think we have reached a point in our life. Maybe, we could not do this in 1986 or 1987. But I think we have reached a point in our life that we have to take a chance on standing up to the IMF. Meaning to say, na kung talagang they will still not give us a little relaxation or a little consideration, we have to try doing it alone without the IMF.

Senator Biazon. From 1981 to this year, Mr. President, the average loss or suspense account increase is averaging from P25 billion to as much as P45 billion in 1984. And the averages through the years, we have something like P25 to P30 billion a year. As of this year, in ten months, we have already probably lost about P25 billion. We do not know yet what it will be next August, which will be one year by that time, if the same losses will be incurred by the new one, which is P25 billion a year. Where we give it P10 billion as proposed or initially P10 billion a year for the first year, the remainder of the P50 billion will be within two years. In one year, all of that is wiped out. So, we are not assured, again as I said, of a success.

Which brings me to a point, Mr. President, that if within the year a sign that the new Central Bank is failing, what are we going to do?

Senator Maceda. If the Sponsor would be willing, let us give this bank a conditional life of two years with certain guidelines that if they do not achieve this in two years, they are abolished.

Senator Biazon. Mr. President, I, therefore, suggest that probably, we can adopt the concept of a “sunset provision” into this law, which says that, if within two, three or five years maybe, the desired effect has not been achieved, then the law lapses and

there is an automatic review by Congress to determine whether or not this new Central will be allowed to continue and live forever and sink this country into further poverty.

Thank you, Mr. President.

Senator Maceda. I will support that proposal, Mr. President, if presented.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized.

Senator Roco. May the Gentleman yield very briefly, Mr. President.

Senator Maceda. Certainly, Mr. President. After having interpellated the Gentleman so much earlier, now is his chance to return the compliments.

Senator Roco. No. We have no intention of returning a compliment, Mr. President.

Just in deference to a factual statement as regards the behest loans. May we ask the Gentleman if he is aware of the Executive Orders transferring the P147 billion so-called behest loans from PNB and DBP to the National Government? This happened, Mr. President, in July and November of 1986. I think these are Executive Orders No. 80 and 81. And if my memory serves me right, the Gentleman was then a member of the Cabinet.

Senator Maceda. That is correct, Mr. President. I referred to it in my speech. But while we were members of the Cabinet, that decision was not really taken up by the Cabinet.

Senator Roco. No. I am not suggesting that, Mr. President. I am just focusing on a statement of fact.

So, the Gentleman realizes that the Executive Orders that transferred the so-called P147 billion behest loans have been effected, and the loans are now part of the obligations of the National Government as of today.

Senator Maceda. That is correct, Mr. President. But the other side of the coin is that, having done that, there is still no justification for the government, whether it is the Aquino administration or the Ramos administration, from trying to collect on these debts that have been transferred to it.

Senator Roco. I agree wholeheartedly, Mr. President. But if he is aware that the Executive Orders as of 1986 have transferred P147 billion liability to the National Government, could he please explain to me why he keeps insisting that the P308 billion includes the P147 billion which is already a liability of the National Government? May this be explained to me by the Gentleman?

Senator Maceda. The way I understand it, this was subsequently transferred to the Central Bank by DBP and PNB.

Senator Roco. Then, that, Mr. President, should require a document. That is not true. That is absolutely unfounded. In fact, it is on record that the only report ever made of the behest loans was by the Committee on Banks. We submitted this last December 18. And it is absolutely not true that it was transferred subsequently to the Central Bank, for the simple reason that they have so many losses of their own.

In other words, Mr. President, factually, the P308 billion that we are talking about does not include the P147 billion, and I want to just assert that for the record because, in the total context of the speech, it is as though we are slipping in the so-called behest loans, the P147 billion, as part of the P308 billion. That is not true. The P147 billion is now already an obligation of the National Government, and there is no way of transferring it again from the Central Bank to the National Government.

Senator Maceda. But in any event, Mr. President, the Gentleman is saying though that the P308 billion is still a correct figure, in addition to the P147 billion.

Senator Roco. That is now correct, Mr. President. And so, to the extent that the portions of the speech of the Gentleman refers to P147 billion as being part of the P308 billion, I would beg him to please correct the misimpression that may be created in the reports. The P147 is one problem that the Banks Committee, in the ordinary course, will pursue. But the misstatement and the misimpression should be corrected.

Thank you, Mr. President.

Senator Maceda. Thank you, Mr. President.

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

Senator Romulo. Mr. President, in accordance with the Rules, the Sponsor of the bill, the Chairman of the Committee on Banks, will now close the debate. I ask that he be recognized.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized.

Senator Roco. There were several points raised, Mr. President, and very briefly I would like to address them to set the record straight.

The first point is the charge of indecent haste is a charge that is rebutted by the high degree of diligence of our Colleagues. I

prefer to rely on the superior quality of the judgment of our Colleagues. I do not think that indecent haste is a way by which our Colleagues' actions and judgment could be described.

The second point, Mr. President, is on the behest loans. Much as I did not want to interpellate because it will occupy time, I have exerted efforts to show that the behest loans, the P147 billion, are now already part of the National Government's liabilities. And the report of the Banks Committee states that so. They are not part of the P308 billion. The P308 is another set of liability.

The third point, Mr. President, is the speech of the Gentleman, for the most part, which addressed or spoke against the P308 billion, and which I could even adopt because it does not refer to the report of the Banks Committee. It refers to the report of the House of Representatives.

We tried to show very clearly, Mr. President, how the P308 billion cannot be absorbed today by the National Government. When we talk of the primary competence of the Monetary Board to make the judgments in this regard, that was in compliance and pursuant to the Constitution. The P308 billion is not being transferred by the Senate version. What the Senate version merely states is having created a new Bangko Sentral, giving it appropriate powers, they can then proceed to pay for the whole. They may ask Congress, in fact, for assistance, or even for payment of liabilities in the future. Congress can say no.

Effectively, Mr. President, as a legal matter — and this is my opinion and it may be shared by others or it may not be shared by others — part of the automatically appropriated amounts that pay now for the public sector debt will be under control if the new Bangko Sentral comes to Congress to ask for payment. Under the law, the Bangko Sentral cannot take the shield. Under the proposed bill, the Bangko Sentral will no longer be shielded by the automatic appropriation clause as far as the P308 billion liabilities are concerned.

So, we have no disagreement in principle on the P308 billion, and sadly, it is given as a *turno en contra*. But I am willing to adopt all the statements as regards the P308 billion as part of the sponsorship speech. The Gentleman from Manila and the Committee are seeking the same objective.

The fourth point, Mr. President, and this is also regrettable, is that the Gentleman keeps on insisting that transparency provisions are not here in the bill.

In Bicol, Mr. President — because I am reminded as Senator Tatad walks in — we have a saying that roughly translates to: "None are so blind as those who refuse to see; none are so deaf as those who refuse to listen."

Wala pong bulag na hindi mapipilit makakita kundi iyong nagbubulag-bulagan; wala pong binging hindi makakarinig kung hindi iyong nagbibingi-bingihan.

And the transparency provisions, I grant, in the better judgment of the Gentleman from Manila, can be improved. But Section 37, the reports, the annual reports, the combination of reports required of the Monetary Board and the Governor, it seems to me, assure transparency. It becomes, therefore, a judgment call, whether the Gentleman from Manila will find this sufficient.

The Gentleman also rhetorically posed that there were various alternatives submitted. And the Gentleman asked: "Can we not explain why alternative A, B, C, D or E is not being used?" Well, these alternatives are better judged by the informed judgment of the new Monetary Board. And that goes to the basic thesis of the bill. We must delegate powers because we are told by the Constitution to do so. We must delegate it to the Monetary Board which will be hopefully composed of the best and the brightest. And with sufficient information, diligent study, and adequate support from the technical staff, we would hope that they can select the best alternative; that they would be in a better position to select the alternatives than our Chamber.

Mr. President, I would like to end there, just to correct some unintentional, I am sure, misstatements. And with that, I wish to close the debate and ask the Majority Leader to file the appropriate motion.

Thank you, Mr. President.

Senator Guingona. Mr. President.

Senator Romulo. Mr. President.

The Presiding Officer [Senator Aquino]. The Majority Leader, Senator Guingona, wants to ask questions.

Senator Guingona. Mr. President, just one or two questions, if the distinguished Sponsor will not mind.

Senator Roco. I consciously sat down, Mr. President, but it may be ungallant not to yield.

Senator Guingona. The distinguished Sponsor stated that all of the P308 billion did not represent any behest loan whatsoever. Is this correct?

Senator Roco. What I said, Mr. President, is that P147 billion behest loans, under the Executive Order, had already been transferred as National Government liabilities. In other words, it

cannot emanate from the Central Bank because under the Executive Order, they are now liabilities of the National Government, unless some other legal document has been produced that I know nothing of.

Senator Guingona. Yes. First of all, if I recall correctly, Mr. Disini, in 1982, divested himself, and in exchange for the so-called divestment, he was promised P50 million and the liabilities to the Central Bank —

Senator Roco. When was this?

Senator Guingona. — in 1982, in the amount of P1.5 billion which was assumed by the National Government.

In other words, it was a liability to the Central Bank perhaps because of a guarantee which the Central Bank rarely gave, but it did buckle down to pressure in some instances and gave guarantees. So that the liability of P1.5 billion is really a behest or a crony loan.

Senator Roco. And this was given to the Central Bank?

Senator Guingona. Yes, by the Central Bank.

Senator Roco. Was this part of the APT that listed the P147 billion?

Senator Guingona. I do not know.

Senator Roco. That is my point, Mr. President.

Senator Guingona. But I believe that there are some accounts there because the Central Bank directly gave accommodations to certain favored clients.

Senator Roco. Mr. President, there are probably liabilities incurred by cronies of the past and maybe, even Mr. Disini was included in the P308 billion. But he is not one of those in the P147 billion, because the P147 billion liabilities transferred through the Executive Order, to the National Government through the APT, is already with the National Government. Whatever the transaction may be, I did not see the Disini, as existing in the list that comprises the P147 billion.

Senator Guingona. As I recall, Mr. President, the P147 billion represented part from the PNB nonperforming assets and from the DBP.

Senator Roco. That is correct, Mr. President. There were 419 accounts or various companies. So they were either accounts or companies involved.

Senator Guingona. But some of these accounts were not included because the Central Bank directly...

Senator Roco. No, if they were not included, then they are not part of the P147 billion.

Senator Guingona. Yes, but my point is that there may be some accounts in the P308 billion which are behest loans.

Senator Roco. But that is not the issue as far as the P147 billion is concerned. Of course, there may be some accounts that are behest loans, but they will be different from the P147 billion inventoried by the APT which shows 419 accounts already transferred to the National Government.

All I am saying, Mr. President, is there should be no mixing of apples and oranges. Because the way it is stated in the speech, as though we are passing them on again, it creates the negative inference that we are trying to hide the behest loans. No. There are behest loans, maybe, with the Central Bank. That is separate from the behest loans of the P147 billion.

Insofar as the P147 billion, it cannot be transferred anymore to the National Government for the simple reason that it is already with the National Government.

Senator Guingona. Fair enough, Mr. President.

Thank you, Mr. President.

Senator Roco. Thank you, Mr. President.

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

Senator Romulo. Mr. President, I move that we now close the period of debates.

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

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, before we proceed with the Committee and individual amendments, may I ask for a one-minute suspension of the session.

The Presiding Officer [Senator Aquino]. Is there any objection to the one-minute suspension of the session? [Silence] Hearing none, the same is approved.

It was 8:23 p.m.

RESUMPTION OF THE SESSION

At 9:05 p.m., the session was resumed.

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

Senator Romulo. Mr. President, I move that we resume consideration of House Bill No. 1235, the Central Bank Act. We are now in the period of Committee amendments. I ask that the distinguished Chairman of the Committee on Banks, Senator Roco, be recognized.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized.

Senator Roco. Thank you, Mr. President. May we be allowed to make oral motions in lieu of a written Committee Report?

The Presiding Officer [Senator Aquino]. Please proceed. We are using the June 3 draft?

COMMITTEE AMENDMENTS

Senator Roco. Let us not worry about the June 3 draft, Mr. President. We must look at the bill as submitted because the reference points will be this bill, the one that we have been talking about. The June 3 draft already contains the proposed amendments. It was worked out with the Secretariat so that the physical preparation is already done. They will just delete what we will remove.

Under the Rules, Mr. President, I will have to refer to the bill as we are discussing, otherwise we will have different reference points. So we are looking at the May 17 copy. It is in the black folder. The value of the June 13 draft is that it is already integrated.

On Section 1, page 3, the second paragraph of Section 1 is proposed to be amended to read as follows: "The capital of the Bangko Sentral shall be FIFTY billion (P50,000,000,000) pesos to be FULLY subscribed by The government of the Republic, hereafter REFERRED TO AS The government, TEN BILLION PESOS (P10,000,000,000) OF WHICH SHALL BE FULLY PAID FOR BY THE GOVERNMENT upon the effectivity of this Act, AND THE BALANCE TO BE PAID FOR WITHIN A PERIOD OF TWO (2) YEARS FROM THE EFFECTIVITY OF THIS ACT, IN SUCH MANNER AS THE GOVERNMENT, THROUGH THE SECRETARY OF FINANCE AND THE SECRETARY OF BUDGET AND MANAGEMENT MAY THEREAFTER DETERMINE."

In the June 3 version, that is now the full second paragraph, from lines 10 to 19. May we move for its approval, Mr. President.

The Presiding Officer [Senator Aquino]. Are there any objections to this amendment? [*Silence*] There being none, the amendment is approved.

Senator Roco. We have no amendments to Section 2, Mr. President.

We are now on page 4.

On page 4, Section 5, line 22, Mr. President, after the words "six (6) years" and "Membership", insert the word "FULL-TIME."

Senator Guingona. Mr. President, is this the June 3rd draft?

Senator Roco. No, I am referring to the draft we discussed in the black folder. If the Gentleman wishes, we can refer to the June 3rd draft, but I guess I need the permission of the whole Body.

The Presiding Officer [Senator Aquino]. Why do we not adopt the June 3rd draft or make a motion to adopt the June 3rd draft as our working draft?

Senator Tolentino. Mr. President, that may perhaps be more convenient for us because we have already gone over the June 3rd version, and perhaps an omnibus motion to have the proposed amendments of the Committee tentatively approved, subject to the proposed individual amendments.

The Presiding Officer [Senator Aquino]. Anyway, since we will be going section by section, we might as well adopt the June 3rd draft. So can the Chair hear a motion, please?

Senator Roco. May we then move, Mr. President, that for purposes of the Committee amendments, we use the June 3rd version.

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

Senator Roco. On page 2 then, Mr. President, line 31, we insert the words "FULL-TIME", so that it becomes "FULL-TIME MEMBERS", and delete the letters "hip in". So it becomes "FULL-TIME MEMBERS of the Monetary Board."

The Presiding Officer [Senator Aquino]. Okay. On line 31 after the words "six (6) years", place a period (.), and then we start with "FULL-TIME MEMBERS."

Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Roco. On line 32 then, we delete the words "be of Cabinet" and in lieu thereof, Mr. President, it shall read now:

"HEAD OF AN EXECUTIVE DEPARTMENT" referred to in Article II, Section 15 of the Constitution.

The Presiding Officer [Senator Aquino]. Is the Sponsor changing the style?

SUSPENSION OF THE SESSION

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

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

It was 9:13 p.m.

RESUMPTION OF THE SESSION

At 9:14 p.m., the session was resumed.

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

Senator Roco. Mr. President, from line 31 to line 33 and all the time to line 1, page 3, the sentence shall now read: "THE GOVERNOR OF THE BANGKO SENTRAL SHALL BE HEAD OF A DEPARTMENT AND HIS APPOINTMENT shall be subject to confirmation by the Commission on Appointments."

The Presiding Officer [Senator Aquino]. With the permission of the Gentleman, Senator Guingona is recognized.

Senator Guingona. Mr. President, we raised this issue of confirmation by the Commission on Appointments, and we were wondering whether the House version carries the same.

Senator Roco. Yes, Mr. President, the House version requires also confirmation, but after the interpellations, we thought we would be adhering more faithfully to the Constitutional mandate if we refer now to the Governor as head of a department subject to confirmation.

Senator Guingona. How about the other members?

Senator Roco. I guess, Mr. President, the other members will not be head of a department and they will not be subject to confirmations.

Senator Guingona. Thank you, Mr. President.

Senator Romulo. Mr. President, just a point of clarification. I understand that at the beginning the Sponsor said "full-time members."

Senator Roco. Those are changed now, Mr. President, because in lieu of all of them being confirmed, we shall now focus on the Governor since he will now be head of a department.

Senator Romulo. That is correct. So, all the members are full time.

Senator Roco. The others will not be subject to confirmation by the Commission on Appointments.

Senator Romulo. I am referring to the full time, Mr. President. I understand they are now full-time members.

Senator Roco. We are not yet there, Mr. President.

Senator Romulo. I am sorry.

The Presiding Officer [Senator Aquino]. Can the Gentleman please repeat the amendment?

Senator Tolentino. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Tolentino is recognized.

Senator Tolentino. I would like to direct the question regarding this section. This section provides for a six-year term for the members of the Monetary Board. Is there a prohibition against reappointment or do I understand that they can continuously be reappointed?

Senator Roco. In the bill, as proposed, there is no provision for reappointment, but there is no prohibition either. And so it is up to the Body, Mr. President. In my view, they can be reappointed.

Senator Tolentino. Would the Sponsor accept a limitation on the number of reappointments?

Senator Roco. Yes, Mr. President.

Senator Tolentino. Maybe, a single reappointment, Mr. President.

Senator Roco. Yes, Mr. President.

Senator Tolentino. We will propose that at the proper time, Mr. President.

Senator Roco. So the second sentence of Section 5, Mr. President, will now read: "THE GOVERNOR OF THE BANGKO SENTRAL SHALL BE HEAD OF A DEPARTMENT AND HIS APPOINTMENT SHALL BE SUBJECT TO CONFIRMATION BY THE COMMISSION ON APPOINTMENTS."

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

Senator Roco. On page 3, Mr. President, I think there is a typographical error that the staff has done.

Letter (b), in the June 3 version, Mr. President, is in capital letters but the Committee is rejecting that proposed amendment. And so the original wording: "A member of the Cabinet to be designated by the President of the Philippines" will remain. So, there is no proposed amendment.

So delete physically the capitalized, the all capitalized sentence which refers to the Director General of the National Economic and Development Authority.

The Presiding Officer [Senator Aquino]. Delete the capitals and in lieu thereof....

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute recess, Mr. President, because we will consult with the Author.

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

It was 9:19 p.m.

RESUMPTION OF THE SESSION

At 9:21 p.m., the session was resumed.

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

Senator Roco. Mr. President, subsection (b) then on page 3 shall be the original wordings which are in bracket on lines 11 to 15. So, there is no need to amend.

We now come to line 16.

The Presiding Officer [Senator Aquino]. Before we go to line 16, there is subsection (a) here wherein it says "The Governor..." Should that not continue? "The Governor of the Bangko Sentral shall be the Chairman of the Monetary Board."

Senator Roco. No, Mr. President. The sentence begins with "The seven (7) are". In other words, "The seven (7) are: (a) The Governor of the Bangko Sentral, who shall be the Chairman of the Monetary Board."

The Presiding Officer [Senator Aquino]. All right. We are now on line 16.

Senator Roco. There is no amendment also to subsection (c), line 16, Mr. President.

We have no proposed amendments on page 3A, on "Qualifications."

Senator Romulo. Mr. President, with the permission of the Sponsor.

The Presiding Officer [Senator Aquino]. Senator Romulo is recognized.

Senator Romulo. Just for the record, Mr. President, I would like to say that this Representation would suggest, and vehemently suggest, that if ever a Cabinet Member is appointed, that such Cabinet Member should neither be the Secretary of Finance nor the Secretary of the Budget.

The Presiding Officer [Senator Aquino]. For the record, is the distinguished Gentleman not including the NEDA Chief?

Senator Roco. No, Mr. President. Theoretically...

The Presiding Officer [Senator Aquino]. As a suggestion among the....

Senator Romulo. I just mentioned two for the record. I am not making any motion for it. Just for the record, I have just expressed my view, Mr. President. Neither the Secretary of Finance nor the Secretary of the Budget should be appointed as a Member of the Monetary Board.

Senator Blazon. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Blazon is recognized.

Senator Blazon. Mr. President, will this Member assume office even before confirmation in his position as Cabinet Member?

Senator Roco. Will he step down if he is appointed? Is that what the Gentleman means, Mr. President?

Senator Blazon. If he is appointed by the President even before his confirmation by the CA for his position as Cabinet Member because he might just be rejected by the CA.

Senator Roco. In that situation, Mr. President, he will be an *ad interim* Cabinet Member and I guess the President will be better advised not to designate him to the Monetary Board.

Senator Blazon. Should we not so indicate it here?

Senator Roco. No. Operationally, Mr. President, an *ad interim* appointee, if designated by the President, will also sit here as an *ad interim* appointee Cabinet Member. If he is rejected, he loses the position automatically.

Senator Blazon. Mr. President, this point is raised because of the possibility of a Cabinet member on an *ad interim* status not having to divest and yet he occupies position here.

Senator Roco. Yes, theoretically, it could happen because the Cabinet members have 30 days to divest.

Senator Blazon. Should we not include something here that will put the President in advisement on this particular issue?

Senator Roco. I think there is another provision that handles that, Mr. President, and that is on page 4. In fact, we are now on Section 8. I think that will be handled by Section 8.

Senator Blazon. Yes, Mr. President. But if even temporarily he occupies position, he could very well be able to do something while he is in position and yet be rejected...

Senator Roco. I am sorry I did not get the question, Mr. President.

Senator Blazon. The question, Mr. President, is, should he assume office even before he is confirmed for his cabinet position by the Commission on Appointments?

Senator Roco. I am modifying this, Mr. President. He cannot assume office in the Monetary Board without divesting. Now, as Cabinet member, he has 30 days. So, the President cannot make an *ad interim* appointee assume office unless he has fully divested.

Senator Blazon. Thank you, Mr. President.

The Presiding Officer [Senator Aquino]. It says in Section 8 that he should divest in 60 days.

Senator Roco. Yes, but this is still in caps and has not yet been approved, Mr. President. This is what I mean; we just worked it in, but in the Committee judgment we must remove this "60 days."

So that Section 8, Mr. President, will read as follows: "A member of the Monetary Board IS DISQUALIFIED FROM BEING a director, officer, employee, consultant, or stockholder of any bank, quasi-bank or ANY OTHER INSTITUTION WHICH IS SUBJECT TO SUPERVISION OR EXAMINATION BY

THE BANGKO SENTRAL, IN WHICH CASE SUCH MEMBER SHALL RESIGN FROM, AND DIVEST HIMSELF OF ANY AND ALL INTERESTS IN SUCH INSTITUTION."

A member cannot assume office without divesting.

The Presiding Officer [Senator Aquino]. All right. That is the proposal. Is there any objection to the proposal? [Silence] Hearing none, the proposal is approved.

Senator Tolentino is recognized.

Senator Tolentino. Mr. President, I just would like to make an inquiry. Following that amendment, on lines 11 to 13, the paragraph has been bracketed. Does that mean that we are to eliminate that part?

Senator Roco. The bracket should not be there, Mr. President. They are not meant to be deleted. The bracket was an error of whoever was typing in the Secretariat.

Senator Tolentino. Thank you.

Senator Roco. So, on line 14, we move that we put in the additional phrase, and I read: NO PERSON SHALL BE A MEMBER OF THE MONETARY BOARD IF HE HAS BEEN CONNECTED DIRECTLY OR INDIRECTLY WITH ANY MULTILATERAL BANKING OR FINANCIAL INSTITUTION WITHIN THREE (3) YEARS PRIOR TO HIS APPOINTMENT; LIKEWISE, NO MEMBER OF THE MONETARY BOARD SHALL BE EMPLOYED, IN ANY SUCH INSTITUTION WITHIN THREE (3) YEARS AFTER THE EXPIRATION OF HIS TERM EXCEPT WHEN HE SERVES AS AN OFFICIAL REPRESENTATIVE OF THE PHILIPPINE GOVERNMENT TO SUCH INSTITUTION.

May we move that this be approved, Mr. President.

The Presiding Officer [Senator Aquino]. Is there any objection to lines 14 to 21? [Silence] Hearing none, the amendment is approved.

Senator Roco. We now come to page 4-A. On line 11, an additional paragraph be added to read as follows:

"THE BANGKO SENTRAL SHALL MAINTAIN AND PRESERVE WITHIN THE PERIOD PRESCRIBED UNDER APPLICABLE LAW A COMPLETE RECORD OF THE PROCEEDINGS AND DISCUSSIONS OF THE MONETARY BOARD, INCLUDING THE TAPES AND TRANSCRIPTS OF STENOGRAPHIC NOTES AND TAPE RECORDINGS."

I move that this be approved, Mr. President.

Senator Guingona. Mr. President.

The Presiding Officer [Senator Aquino]. Yes, Senator Guingona.

Senator Guingona. Just for clarity. Is it 4-A?

Senator Roco. We are on page 4-A.

Senator Guingona. What line please?

Senator Roco. Line 11. After line 11, there will be an additional paragraph — this is really the Osmeña Amendment.

Senator Guingona. May we have that please?

Senator Roco. Yes.

"THE BANGKO SENTRAL SHALL MAINTAIN AND PRESERVE WITHIN THE PERIOD PRESCRIBED UNDER APPLICABLE LAW A COMPLETE RECORD OF THE PROCEEDINGS AND DISCUSSIONS OF THE MONETARY BOARD, INCLUDING THE TAPES AND TRANSCRIPTS OF STENOGRAPHIC NOTES AND TAPE RECORDINGS."

I move that this be approved.

The Presiding Officer [Senator Aquino]. How long should they keep these records, forever?

Senator Roco. No. Within the period prescribed under applicable law. So, I guess, there must be some prescriptive period when they can throw them away, and transform them, maybe, into microfilm.

The Presiding Officer [Senator Aquino]. Is there any objection to this amendment?

Senator Osmeña. Mr. President.

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

Senator Osmeña. Mr. President, instead of saying a period allowed by law, why not just say five years or eight years. Maybe eight years, because six years is the term of the President, and two years after he has left office.

Senator Roco. We accept the amendment to the amendment. So, within eight years. So, it will now read, Mr. President, as follows:

"THE BANGKO SENTRAL SHALL MAINTAIN AND PRESERVE WITHIN EIGHT YEARS FROM THE

OCCURRENCE OF THE TRANSACTION OF MONETARY BOARD MEETING A COMPLETE RECORD OF THE PROCEEDINGS AND DISCUSSIONS OF THE MONETARY BOARD, INCLUDING THE TAPES AND TRANSCRIPTS OF STENOGRAPHIC NOTES.”

The Presiding Officer [Senator Aquino]. Is there any objection to this amendment?

Senator Tolentino. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Tolentino is recognized.

Senator Tolentino. I would just like to inquire as to the reason for making such a short limit of time.

Senator Roco. I think the Gentleman from Cebu will be very happy to explain.

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

Senator Osmeña. In reply to the question of our Colleague, Senator Tolentino, during the investigation of the petrochemical project, when we examined the very intricate and complicated financial arrangements involving PNB, the Offshore Bank Unit of the PNB in Hong Kong and debt swaps that were brought into play, we wanted to see what were the varying views of the members of the Monetary Board. More so, since it was common knowledge, I think it was testified to, that the then NEDA Secretary Solita Monsod objected very vehemently to the project.

We met a blank wall, Mr. President. We were told that the transcripts were not available; that there were no stenographic notes of the proceedings; that what was available was what they call the abbreviated journal or the minutes, in the manner we have a journal here or minutes abbreviated by the staff.

In effect, Mr. President, we were denied, either deliberately or by practice, access into the thinking of the various members of the Monetary Board on a particular issue. Since the Monetary Board goes through very serious deliberations involving the fiscal and monetary policy and decisions of far-reaching consequence to the economy, and in view of the provisions of the Constitution on transparency in government, we see this as an opportunity to write into law what the Central Bank has heretofore avoided or, at least, did not want to share with us.

Senator Tolentino. Mr. President, I am not questioning the wisdom of requiring the preservation of these records and minutes. What I am asking is, why is there a time limit? Supposing we will need to see these records many years after, 10 or 20 years after.

Senator Osmeña. Mr. President, the time limit was actually set by me as an amendment to an earlier phrase suggested by the Author. I do not remember the exact language.

Senator Roco. There will be a time limit of eight years from the period....

Senator Tolentino. Maybe, Mr. President, we can just say a time limit of eight years for the original records because they will consume a lot of space if they are all preserved. But there are now ways and means of preserving this — by microfilm. Why do we not require that they be preserved for a longer time in microfilm because it may be that we will inquire into these transactions or meetings many, many years later? And as the distinguished Gentleman from Bicol said, he may not find the records anymore.

Senator Osmeña. Mr. President, I have no objection. In fact,

Senator Tolentino. Maybe, the Committee could formulate some amendments to take care of that contingency.

Thank you.

Senator Roco. May we approve it, subject to style, Mr. President, so that we can have an alternative way of keeping records through microfilm.

The Presiding Officer [Senator Aquino]. All right, subject to that *colatilla*. Is there any objection to the amendment? [*Silence*] Hearing none, the amendment is approved.

Senator Romulo. Mr. President.

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

Senator Romulo. I did not object but I just would like the Chamber to know that that provision is neither in the Bundesbank law or the U.S. Federal Reserve Board. Every year, Congressman Henry Gonzales tries to introduce that provision in the U.S. Federal Bank Law but he never succeeds. Just for the information of this Chamber.

The Presiding Officer [Senator Aquino]. All right. Can we proceed?

Senator Roco. On line 13 of the same page, Mr. President, the word “shall” should be replaced with the word “MAY”. So that it states: “The Deputy-Governors MAY attend the meetings”...

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

Senator Roco. We are now on page 5, Mr. President. On line 12, may we move to delete the words "part-time" so that: "All members of the Monetary Board shall receive a per diem"...

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

Senator Roco. On line 21, in lieu of the ...

The Presiding Officer [Senator Aquino]. Excuse me.

Senator Guingona is recognized.

Senator Roco. Yes, Mr. President.

Senator Guingona. Would it be appropriate at this time to introduce an amendment to the proposed amendment, Mr. President? Just to save time.

Senator Roco. Will he state it?

The Presiding Officer [Senator Aquino]. Where are we now? What line?

Senator Roco. Is the Gentleman referring to line 21?

Senator Guingona. On line 2 of page 5, Section 12.

The Presiding Officer [Senator Aquino]. Line 2?

Senator Guingona. Yes, page 5, Section 12.

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension.

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

It was 9:39 p.m.

RESUMPTION OF THE SESSION

At 9:39 p.m., the session was resumed.

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

Senator Roco. Mr. President, as a Committee amendment, on line 2, instead of the word "Remuneration", we replace it with the word "SALARY".

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

Senator Roco. And then the rest of the sentence, Mr. President.

SUSPENSION OF THE SESSION

Senator Roco. Mr. President, may I ask for a one-minute suspension.

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

It was 9:40 p.m.

RESUMPTION OF THE SESSION

At 9:44 p.m., the session was resumed.

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

Senator Roco. On Section 12, Mr. President, the first paragraph from lines 2 to 11, we move that it reads as follows:

"The SALARY of the Governor of the Bangko Sentral and the full-time members of the Monetary Board shall be fixed by the President of the Philippines UPON RECOMMENDATION OF THE MONETARY BOARD at a sum which recognizes the importance and responsibilities of the position: *Provided*, That THE SALARY OF THE GOVERNOR shall in no case exceed ONE HUNDRED FIFTY thousand pesos (P150,000.00) a month, AND THE FULL-TIME MEMBERS ONE HUNDRED TWENTY THOUSAND PESOS (P120,000.00) A MONTH, EXCLUSIVE OF ANY ALLOWANCES NORMALLY GRANTED TO OTHER GOVERNMENT OFFICIALS AS THE MONETARY BOARD MAY FIX."

Senator Maceda. Mr. President.

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

MACEDA AMENDMENT

Senator Maceda. Mr. President, I would just like to change one word, that the word "EXCLUSIVE" be changed to "INCLUSIVE OF ALL ALLOWANCES".

Senator Roco. We accept the amendment to the amendment, Mr. President. I move that we approve the amendment.

The Presiding Officer [Senator Aquino]. Are there any objections to this amendment? [*Silence*] Hearing none, the motion is approved.

Senator Roco. A new paragraph is sought to be introduced as well, Mr. President. In lieu of lines 12 to 14, may we read now the proposed paragraph:

“SUBJECT TO PERTINENT CONSTITUTIONAL PROVISIONS, THE MEMBERS OF THE MONETARY BOARD, INCLUDING THE CHAIRMAN, SHALL RECEIVE A PER DIEM OF FIVE THOUSAND PESOS (P5,000.00) FOR EVERY BOARD MEETING ATTENDED.”

I move that we approve these words in lieu of the present wordings from lines 12 to 14.

The Presiding Officer [Senator Aquino]. Are there any objections to the amendment? [*Silence*] Hearing none, the amendment is approved.

Senator Roco. On line 21, Mr. President, I move that we have the sentence, “THE PUBLIC SHALL HAVE ACCESS TO THE DECISION TAKEN ON THE MATTER” in lieu of the former wordings which read:

“The decision taken on the matter shall be made public”...

The Presiding Officer [Senator Aquino]. So the one in capital letters.

Senator Roco. The one in capital letters, Mr. President.

Senator Maceda. Mr. President.

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

Senator Maceda. The former wording gives more transparency because the decision is mandated to be made public. When we say, “THE PUBLIC SHALL HAVE ACCESS”, it assumes a procedure where some member of the public will have to apply and request the information. If we want more transparency, I think the previous wording gives that. Changing it to the proposed amendment really would limit the transparency of this particular matter.

Senator Roco. In view of that manifestation, Mr. President, we will withdraw the proposed amendment.

Senator Maceda. Thank you, Mr. President.

Senator Roco. It can be submitted later on as an individual amendment.

The Presiding Officer [Senator Aquino]. So if that is withdrawn, what is the proper wording?

Senator Roco. The original wording stays, Mr. President.

We are now on page 6, line 20, the phrase, “SHALL HAVE EXCLUSIVE AUTHORITY TO ADOPT ITS OWN PRODUCTIVITY AWARD SYSTEM AND” shall be inserted between the words “Board” and “may”.

I move that we approve the amendment.

The Presiding Officer [Senator Aquino]. Are there any objections to the amendment? [*Silence*] Hearing none, the amendment is approved.

Senator Roco. On line 23, after “salaries” we add the phrase, “FOR PERSONNEL OF THE BANGKO SENTRAL”.

I move that we approve the amendment, Mr. President.

The Presiding Officer [Senator Aquino]. Are there any objections to the amendment? [*Silence*] Hearing none, the amendment is approved.

Senator Roco. We have no further amendments on page 6 and 6A.

SUSPENSION OF THE SESSION

May we have a one-minute suspension, Mr. President.

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

It was 9:49 p.m.

RESUMPTION OF THE SESSION

At 9:50 p.m., the session was resumed.

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

Senator Roco. On line 4, after the word “members”, we add the phrase “AND OTHER OFFICIALS OF THE BANGKO SENTRAL, INCLUDING PERSONNEL”. That phrase shall replace the words “officers or employees”.

The Presiding Officer [Senator Aquino]. Is there any objection to this amendment?

Senator Maceda. Mr. President.

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

Senator Maceda. What is the reason for the change from the former wording "officers or employees"? It is being changed to "OTHER OFFICIALS, INCLUDING PERSONNEL".

Senator Roco. I think the Deputy Governors will then be covered.

Senator Maceda. Does the Gentleman mean to say the Deputy Governors are not considered officers?

Senator Roco. The other effect, Mr. President, is, it will extend to other departments, not purely to the supervision.

Senator Maceda. No. I am just saying the "officers or employees," to me, is the same as "other officials, including personnel." I am trying to find out if there is a difference by this change.

Senator Roco. That is correct, Mr. President.

Senator Maceda. What is the difference?

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension, Mr. President?

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

It was 9:52 p.m.

RESUMPTION OF THE SESSION

At 9:53 p.m., the session was resumed.

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

Senator Roco. Mr. President, as originally worded, the terms "officers or employees" is qualified by the terms "of the departments performing supervision and examination functions". So that the qualification of departments performing supervision and examination functions is a restriction to the terms "officers or employees".

As proposed now, "OTHER OFFICIALS OF THE BANGKO SENTRAL", referring to Deputy Governors, including personnel of the departments performing supervision and examination functions, it is only the word "personnel" that is qualified by the department performing supervision function. So that there are

other high-ranking officials who are not in the supervision department that will be extended an indemnification clause.

Senator Maceda. Is the Gentleman saying that this is meant to cover everybody, or is he saying that it is meant to cover exclusively personnel of the department performing supervision and examination functions?

Senator Roco. Personnel in the department performing supervision and examination functions shall be covered. And officials, even if they are not in the department exercising supervision shall also be given indemnification protection.

Senator Maceda. All right.

What is covered is all members of the Monetary Board and all officials of the Bangko Sentral irrespective of department.

Senator Roco. That is correct.

Senator Maceda. And personnel or employees only of this one department.

Senator Roco. Yes, Mr. President.

Senator Maceda. All right.

What is covered is all members of the Monetary Board and all officials of the Bangko Sentral irrespective of department.

Senator Roco. Yes, Mr. President.

Senator Maceda. All right, that sounds clearer. Now I understand although, I think there has to be some style improvement still. Subject to style.

Senator Roco. Subject to style, Mr. President, restricted by that concept. We move to approve.

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

SUSPENSION OF THE SESSION

Senator Romulo. May we have a one-minute suspension, Mr. President.

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

It was 9:56 p.m.

RESUMPTION OF THE SESSION

At 10:01 p.m., the session was resumed.

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

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 1235

Senator Romulo. Mr. President, in consultation with the Chairman of the Committee on Banks, Financial Institutions and Currencies, and together with our Colleagues, I move that we suspend consideration of Senate Bill No. 1235, the Central Bank Act. We will take this up tomorrow when we resume at 9:30 in the morning, Mr. President.

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

Senator Romulo. Mr. President, with the consent and permission of our Colleagues, I move that the distinguished Gentleman from Bulacan, Senator Ople, be recognized.

The Presiding Officer [Senator Aquino]. Senator Ople is recognized.

MANIFESTATION OF SENATOR OPLE
(Expedition to Somalia)

Senator Ople. Thank you, Mr. President.

I wanted to take advantage of this interval to bring to the attention of the Senate what appears to be an urgent communication from the Department of Foreign Affairs. The Secretary of Foreign Affairs, addressed to the Honorable President of the Senate, copy furnished the Committee on Foreign Relations, which notifies the Senate that the Departments of Foreign Affairs and National Defense, after thorough consultations, have decided to recommend to the President that the Philippines contribute up to a maximum of 100 officers and men of the Armed Forces of the Philippines to participate in the second UN operations in Somalia. It is believed that the Philippine participation in UNO SOM II will further enhance the country's exemplary record in peacekeeping operations such as the UN guards contingent in Iraq and the United Nations transitional authority in Cambodia. This gesture will underline Philippine support for the UN and the decisions of the Security Council.

In addition, the Philippines enjoys a special position among Somalians, having been a member of the UN Commission which paved the way for Somalian independence.

You may recall that as a concrete expression of our participation in the global assistance efforts for Somalia, the Philippine Government contributed \$5,000 to the UN for its humanitarian program in that country.

May I request that this be indicated in the Calendar of Business at an early opportunity, Mr. President.

Senator Tatad. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Tatad is recognized.

Senator Tatad. I wonder if the distinguished Chairman of the Committee will respond to just one question.

Senator Ople. Very gladly, to the Vice-Chairman of the Committee on Foreign Relations.

Senator Tatad. Mr. President, I was wondering if we have any information as to the types of personnel that would be preferred for this expedition. I was thinking of nominating the PACC for this assignment if that would be acceptable.

Senator Ople. If this is said in all seriousness, I am sure that the President of the Senate has taken note of that.

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

Senator Biazon. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Biazon is recognized.

Senator Biazon. Mr. President, as early as this time, probably favorable consideration of this communication should be given. But as early as this time, even before this is properly taken up by the proper Committee, may I enjoin or caution those who are going to be responsible for the selection of the personnel to be a little bit more careful in the selection of members of this contingent so that we may not again suffer the same incident that we experienced with the contingent that went to Cambodia. Thank you, Mr. President.

Senator Shahani. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Shahani is recognized.

Senator Shahani. Mr. President, I hope that the health aspect of the enterprise will be considered. As we know, Africa has been the place where the AIDS began, and that is one continent where the epidemic still rages.

June 5, 1993

WHICH WAS FORMED ALLEGEDLY FOR THE PURPOSE OF USING THE SAME AS A CONDUIT FOR OBTAINING A LOAN FROM THE CITY GOVERNMENT OF CEBU FOR THE SOLE AND EXCLUSIVE BENEFIT OF ONE OF ITS MEMBERS.

Introduced by Senator Osmeña.

The President. Referred to the Committee on Cooperatives.

The Secretary. Proposed Senate Resolution No. 473, entitled

RESOLUTION DIRECTING THE COMMITTEE ON PUBLIC SERVICES, IN AID OF LEGISLATION, TO INQUIRE INTO THE GRANT BY THE NATIONAL TELECOMMUNICATIONS COMMISSION OF A PROVISIONAL AUTHORITY TO OPERATE VOICE TELECOMMUNICATIONS SERVICES TO SMART INFORMATION TECHNOLOGIES, INC. (SMART) ABSENT A LEGISLATIVE FRANCHISE AUTHORIZING THE SAME IN VIOLATION OF THE CONSTITUTION AND EXISTING LAWS OF THE REPUBLIC.

Introduced by Senator Osmeña.

The President. Referred to the Committee on Public Services.

The Majority Leader is recognized.

SUSPENSION OF SESSION

Senator Romulo. Mr. President, we need approximately five minutes, at most 10 minutes, before we get the printed copies of Senate Bill No. 1235. So 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 10:51 a.m.

RESUMPTION OF THE SESSION

At 10:52 a.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, while we are waiting for the 10 minute printing of Senate Bill No. 1235, upon consultation with the Chairman of the Committee on Banks, may we move that

we consider Committee Report No. 159 on Senate Resolution No. 462 — the Medium Development Plan — which, according to Senator Macapagal, will not take more than 10 minutes.

SUSPENSION OF THE SESSION

The President. The Chair will suspend the session for one minute, if there is no objection. [There was none.]

It was 10:52 a.m.

RESUMPTION OF THE SESSION

At 10:55 a.m., the session was resumed.

The President. The session is resumed.

Senator Macapagal is recognized.

Senator Macapagal. Mr. President, considering the importance of our consideration of the Medium-Term Philippine Development Plan, and that it might be better to have continuity in the consideration of the resolution at hand, and considering that the documents being awaited by Senator Roco are coming in very shortly, I would like to manifest that I shall reserve the privilege of presenting the sponsorship speech on the first day of session in July.

Thank you, Mr. President.

The President. Thank you, Senator Macapagal.

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 10:56 a.m.

RESUMPTION OF THE SESSION

At 12:12 p.m., the session was resumed with Senator Agapito A. Aquino, presiding.

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

BILL ON SECOND READING
Senate Bill No. 1235 — The New Central Bank Act
(Continuation)

Senator Romulo. Mr. President, I move that we resume consideration of Senate Bill No. 1235 as reported out under Committee Report No. 138.

The Presiding Officer [Senator Aquino]. Resumption of consideration of Senate Bill No. 1235 is now in order.

Senator Romulo. Mr. President, we are still in the period of Committee amendments. I ask that the Sponsor and Chairman, Senator Roco, be recognized.

The Presiding Officer [Senator Aquino]. Senator Roco is recognized.

Senator Roco. Mr. President, we just got a minute ago the draft as of June 5. We will just call attention to two portions before filing an omnibus motion adopting all the Committee amendments as engrossed and shown in the draft as of June 5.

The first one, Mr. President, is on page 14. Because of the expressed concern against possible violations of the Bank Secrecy Law and the recommendation of four of our Colleagues to delete the portions in Section 25, the first two paragraphs of Section 25 are deleted as a recommendation of the Senate Committee.

The Presiding Officer [Senator Aquino]. Shall we act on this now?

Senator Roco. No, Mr. President. I am just calling attention, then I will file an omnibus motion that all the Committee amendments be adopted, and then we can shift immediately to individual amendments and catch therefore the corrections later on.

The next important modifications, Mr. President, are on page 66. Again, this is in response to various proposals as regards the transfer of assets and liabilities. I will just read it so that our Colleagues can focus on the two major proposals:

On line 5, "The Bangko Sentral shall remit" — not seventy-five percent (75%) anymore — "FIFTY percent (50%) of its net profits to the old Central Bank until such time AS the latter's net liabilities are" — we are deleting "fully liquidated" because it gives the impression of a firm legal commitment — "WITHIN THE ALLOWABLE RANGE FOR CENTRAL BANKING OPERATIONS."

In other words, Mr. President, the Monetary Board is given the flexibility to write off or to resort to other recognized financial means of lowering liabilities in their balance sheets.

Then we delete, Mr. President, "In the event that" and we continue with, "On a year-to-year basis, the Bangko Sentral." On

line 13, it is not "shall" but "MAY," "MAY request Congress for ASSISTANCE OR appropriations TO RESTRUCTURE OR HELP settle the Central Bank's obligation.

This is in response to the observations of our Colleagues that it looks like a firm commitment when the intention of the Committee was precisely to subject the new Bangko Sentral to congressional control.

May we just call attention to a legal effect. Because of this, what the Central Bank today is paying through automatic appropriations to the extent that they need to pay from the old liabilities the amounts they ask from Congress shall now be subject to control by Congress. An automatic appropriation law shall no longer apply insofar as the payment or repayment of the old liabilities.

With those in focus, Mr. President, we are pleased and we will seek the support of our Colleagues to approve the omnibus motion that the draft as of June 5, containing engrossed portions showing the Committee amendments, be approved and, therefore, be used as the draft for Committee amendments.

The Presiding Officer [Senator Aquino]. Is there any objection to the use of the June 5 draft?

Senator Romulo. There is a motion to adopt it.

Senator Maceda. Mr. President.

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

Senator Maceda. Mr. President, this is an extraordinary measure, but I am not going to object because of what I understand is the acceptance of the fact, especially considering the House's position, that there will be no effort to pass at all costs this bill with a Conference Committee Report today.

Senator Roco. Absolutely, Mr. President.

Senator Maceda. Thank you.

Senator Roco. In fact, there are discussions. If our Colleagues should consider this draft with approval by this afternoon, then maybe by Monday, Tuesday, Wednesday, there will be Conference Committees.

The Presiding Officer [Senator Aquino]. All right. Is there any objection to using the June 5 as our draft?

Senator Romulo. The motion to adopt this.

Senator Tolentino. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Tolentino is recognized.

Senator Tolentino. We have no objection to that motion, but it should be with the understanding that during the course of Individual Amendments, an individual Senator may still propose amendments to the Committee amendments.

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

Senator Roco. That is correct, Mr. President.

Senator Tolentino. Thank you, Mr. President.

Senator Gonzales. Mr. President.

The Presiding Officer [Senator Aquino]. Senator Gonzales is recognized.

Senator Gonzales. May we request that consideration of this Senate Bill No. 1235 be suspended for 10 minutes to give us an opportunity to look over these Committee amendments. Because, as I see it now, particularly in Section 25, what has been previously agreed, together with the individual amendments which we have made thereto, under this draft now, have been totally deleted. We would want to know what is the reason for the deletion of the same.

Senator Roco. I think the Gentleman, Mr. President, is among those who proposed amendments to delete this because of the danger to the secrecy of bank deposits.

Senator Gonzales. I have a written amendment, but I would want to know the reason, whether it be through interpellations or in private talks, because this has been involved in an individual amendment which I presented in writing.

Senator Roco. Yes. In fact, it is by way of accepting the individual amendment of the Gentleman that this is being treated. Aside from the Gentleman from Mandaluyong, the Gentleman from Manila, Senator Tolentino, the Gentleman from Bulacan, and the Gentleman from Isabela also asked that those be deleted. So, it was adopted as a Committee amendment.

Senator Gonzales. I reiterate my motion.

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

Senator Roco. Ten minutes will be very good, Mr. President.

Senator Gonzales. To enable us to take our lunch, then we go back after this, until two o'clock. That will give us an opportunity not only to take our lunch — I think we are entitled to take our lunch — but that will also give us sufficient opportunity to go over this bill with Committee amendments.

The Presiding Officer [Senator Aquino]. The proposal is to precisely use this as the draft, and it can still be opened to all kinds of amendments later on. But this is the draft that we are going to adopt. The Committee amendments are embodied here.

Senator Gonzales. There is no adoption of the Committee amendments themselves.

Senator Roco. No. If we adopt this, Mr. President, under the omnibus motion, then even those portions of the bill that had been amended by way of Committee amendments can be subject to individual amendments.

The Presiding Officer [Senator Aquino]. With that understanding.

Senator Gonzales. All right, with that understanding. Thank you.

The Presiding Officer [Senator Aquino]. With that understanding. Is there any objection to the adoption of the June 5 draft? [*Silence*] Hearing none, the same is approved.

Senator Roco. If we can begin at 1:30 this afternoon, Mr. President, so that we just keep on going, especially for those who might have amendments. It is the same as the old draft.

Senator Tañada. Mr. President.

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

Senator Tañada. I may be late, Mr. President, as long as I will be given the chance to introduce amendments.

Senator Roco. Yes. There will be no effort to close it until the Minority Leader is here.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, in view of the consensus and upon consultation with our Colleagues, I move that we suspend the session until 1:30 p.m.

The Presiding Officer [Senator Aquino]. Is there any objection? [*Silence*] Hearing none, the session is suspended until 1:30 p.m.

It was 12:21 p.m.

RESUMPTION OF THE SESSION

At 2:03 p.m., the session was resumed with the Senate President, Honorable Edgardo J. Angara, presiding.

The President. The session is resumed.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

BILL ON SECOND READING

Senate Bill No. 1235 — The New Central Bank Act (Continuation)

Senator Romulo. I move that we resume consideration of Senate Bill No. 1235.

The President. Resumption of consideration of Senate Bill No. 1235 is now in order.

Senator Romulo. Mr. President, I ask that the Sponsor and Chairman, Senator Roco, be recognized.

The President. Senator Roco is recognized.

Senator Roco. Mr. President, we are about to commence the individual amendments, using the June 5, 1993 draft. I notice, however, that the approved corrections were not entered. We approved certain Committee amendments yesterday but they are not reflected yet in some sections of the draft. So, we will ask permission later on to put it in, as approved already. But we can begin with page 1.

If there are any individual amendments on page 1....

The President. Is there any individual amendment on page 1, page 1-A, page 2, page 3?

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Page 2, Mr. President.

The President. Page 2.

Senator Guingona. On line 2, I was wondering whether the distinguished Sponsor will agree to deleting the words towards the end of line 2: "balanced and." So that it will read: "conducive to a sustainable growth of the economy."

Senator Roco. Mr. President, I mentioned to the Gentleman that it will be difficult for me to accept the individual amendment because all the economists who testified during the various hearings stressed the need for the term "balanced" to connote neutrality of monetary policy as regards the sectors of the economy. If we remove that, we might repeat the situation a long time ago, when, because of some bias, for instance...I will just make it hypothetical. Hypothetically, the Monetary Board may be biased for the sugar industry, and therefore, monetary policy may favor the promotion of the sugar industry. Not that I do not like the sugar industry. But monetary policy should be neutral, and that is what we meant by the word "balanced." And because of that, we may ask the Gentleman not to press the individual amendment.

The President. What is the pleasure of the Gentleman?

Senator Guingona. I just want to put on record that if the economic policy of the nation, for example, is industrialization, then this does not mean to say that agriculture would have to be balanced in that sense because...

Senator Roco. No, that is not what we are excluding. It is sector of the economy. So, we can have industrialization in the sugar industry, in the coconut industry.

Senator Guingona. And this is in accordance with the pronounced economic policy of the nation.

Senator Roco. That is allowed within the context of this phrase.

Senator Guingona. Thank you, Mr. President.

The President. Thank you. Back to 3-A.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized, then, later on, Senator Tolentino.

Senator Gonzales. Because of time constraints, Mr. President, the Members of this Body had been asked and encouraged to submit their individual amendments to the distinguished Sponsor, and who passed upon them. Some of them had been accepted *in toto*; some had been only partly accepted; some had become part of the Committee amendments themselves.

May I then suggest, Mr. President, that when an individual amendment has been incorporated here, whether as part of the Committee amendment or standing as an individual amendment, attribution thereof be made in the *Record* so that there will be an official record and recognition of the authorship and participation of individual Members, vis-a-vis the said amendment.

Senator Roco. Yes, we could do that, Mr. President. In fact, if the Gentleman would allow, we will just later on incorporate all the authorships that were adopted as Committee amendments so that the records will credit all those who were mentioned.

The President. All right. Senator Tolentino is recognized.

Senator Tolentino. Mr. President, I was going to propose an amendment to page 3, line 6.

The President. Page 3, line 6.

Senator Tolentino. Yes. That when the Governor of the Bangko Sentral cannot attend a meeting — it states “a Deputy Governor designated by him.” I would just like to insert, after the phrase “designated by him,” the following: “FROM AMONG THE MEMBERS.” Because he may designate somebody outside of the membership. I think as far as the meetings of the Board are concerned, if the Governor is not present, then one of the members should attend.

The President. And that phrase will go on line 9, between the words “him” and “shall.” “...a Deputy Governor designated by him FROM AMONG THE MEMBERS.”

Senator Roco. Line...?

The President. Line 9.

Senator Tolentino. That is on line 9 in the June 5 text.

The President. Yes, line 9, between the words “him” and “shall.”

Senator Tolentino. Yes, between “him” and “shall,” “FROM AMONG THE MEMBERS.”

The President. What is the pleasure of the Sponsor?

Senator Roco. The Deputy Governors may not be members of the Monetary Board, Mr. President.

Senator Tolentino. Yes. My idea is that the Presiding Officer of the Board should be a member. If the Governor is not there, it must be a member who should preside, not outside of the Board.

The President. I think the Monetary Board should designate one of its members as acting Chairman, rather than an executive acting as Chairman.

Senator Tolentino. Yes, that would be all right.

Senator Roco. Yes. Maybe, that will be a better concept. So, subject to style, we can adopt that concept, that when the Governor is unable to attend a meeting, one of the members of the Board shall be designated to act as Chairman, Mr. President.

The President. The Monetary Board will designate one of its members to act as Acting Chairman.

Senator Roco. If that is acceptable to the Gentleman from Manila....

Senator Tolentino. So the amendment will be on that line 9, after “designated,” delete “by him” and say “designated BY THE BOARD.” So instead of “by him,” say “BY THE BOARD.”

Senator Roco. No, but it does not have to be a Deputy Governor. “ONE OF THE MEMBERS OF THE BOARD SHALL BE DESIGNATED”...

TOLENTINO-ANGARA AMENDMENT

The President. If I may suggest, in lieu of the phrase on lines 8 and 9, “a Deputy Governor designated by him shall act as Chairman,” we insert “THE MONETARY BOARD SHALL DESIGNATE ONE OF ITS MEMBERS AS ACTING CHAIRMAN,” if that is acceptable. Is it acceptable?

Senator Tolentino. Yes, Mr. President. That would be acceptable.

The President. Senator Roco, is that acceptable?

Senator Roco. Yes, Mr. President.

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

Senator Tolentino. Between lines 23 and 24, we took this up yesterday. I do not know if the distinguished Sponsor would be agreeable to this, that we place a limitation on the number of reappointments to the Board.

Senator Roco. Yes, Mr. President. That is why I mentioned that some of the amendments we already approved yesterday apparently were not carried forward here. That is already an amendment. Maybe, we should put it here already at the beginning, “COMPOSED OF SEVEN (7) MEMBERS APPOINTED BY THE PRESIDENT FOR A TERM OF SIX (6) YEARS.” Then words to the effect that he can be reappointed at least once.

Senator Tolentino. “AT LEAST NOT MORE THAN ONCE.”

Senator Roco. "PROVIDED HE MAY NOT BE REAPPOINTED FOR MORE THAN ONCE" or words to that effect, Mr. President.

TOLENTINO AMENDMENT

Senator Tolentino. I was thinking of placing that at the end, the last paragraph of that section, between lines 23 and 24 in the June 5 text. "NO MEMBER MAY BE REAPPOINTED MORE THAN ONCE."

Senator Roco. The amendment is accepted, Mr. President.

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

On page 3A?

Senator Tolentino. Mr. President, on page 3A, with respect to the qualifications, I would like to seek the reaction of the distinguished Sponsor on a proposal that we disqualify any person who, at the time of the approval of this Act, is a member of the Monetary Board of the present Central Bank, or who has an interest in any private bank.

In other words, if a person, at the time of the approval of this Act, is a stockholder in a private bank, then he would not be qualified to be a member of the Monetary Board. Or, if at the time of the approval of this Act he is a member of the Monetary Board of the Central Bank, he would not be qualified to be a member of the Bangko Sentral Monetary Board.

Senator Roco. I have no problems with the concept, Mr. President; but I am concerned with the flexibility that the President may lose. I do not know the actual situation as to how many will be available for Monetary Board service, and we may unduly restrict the flexibility of the President.

Senator Tolentino. With respect to the first part, being a member of the Monetary Board now in the Central Bank, I do not have a very strong feeling about that. But with respect to the second part of a person who has interest in an existing private bank, I would not like to see a repetition of a case where a person who owns a bank actually becomes a Governor of the Monetary Board, divests himself — but these divestments usually may be a divestment on paper only — and then while he is Governor, he seeks to take advantage of his position in order to benefit his own bank. That is what we would like to avoid, Mr. President.

The President. To what extent of stockholding would the Gentleman qualify as an element of disqualification?

Senator Tolentino. My proposal is, any interest.

The President. So a one-share bankholding would disqualify a person.

Senator Tolentino. Yes. Any interest in a private bank.

Senator Roco. It might be very difficult. I do not know, Mr. President. Again, the concept is acceptable to me and I think we should find the words to precisely express that.

But in the example of one share, assuming somebody has only one share, and under the terms of the proposed bill, one cannot qualify unless he divests. He cannot even qualify to sit in the Board unless....

Senator Tolentino. What I am after is, this divestment business sometimes is a divestment on paper. It is not a real divestment, and that is what I am afraid of. Although divested — he does not hold a single share — yet, he may perform acts which may be favorable to his own bank. He may even see to it that other banks are closed.

Maybe, Mr. President, in order not to delay, if the Sponsor would not object, we can leave this part first and we may go over it later on.

The President. I think that is a good suggestion, so we can move on.

Senator Roco. Yes, Mr. President. We will come back to that.

The President. We will come back to that amendment.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Yes. I have an anterior amendment. I think the proposed amendment of Senator Tolentino is more on the disqualifications. So, I would like to go back to page 3-A on the qualifications.

I was wondering whether we can specify the so-called "disciplines" which can provide productive inputs, because this is open-ended. Initially, I could think of finance, economics, or whatever other disciplines the Gentleman may have in mind.

Senator Roco. Mr. President, under the old Central Bank Act they, in fact, were enumerated. The reason the Committee chose this general statement is, as we listen to resource persons, different people had different concepts as to which discipline is useful.

Let me just read, for instance, Mr. President. The old Central Bank law says economics, banking, finance, commerce, agriculture or industry, and then there were those who suggested other areas — law, et cetera. And there would be discussions. Apparently, there are some very esoteric disciplines now that may be useful, so we made it generic. So that the President will have to exercise utmost judgment in choosing a combination in the Monetary Board that will have maximum....

The President. Productivity.

Senator Maceda. I understand that, Mr. President. But the way this is formulated, there is really no additional qualification here because one can argue whatever his profession that he could provide productive inputs to the formulation of monetary policy. The way it is phrased, almost any profession or discipline can and thus provide input to monetary policy.

Senator Roco. We sort of rely on the President's good judgment, Mr. President. For instance, being a barber in Dagupan may not be a sufficient discipline that can contribute productive inputs in the formulation of monetary policy. So, we are assuming that there will be an exercise of a very good judgment on the part of the appointing power.

But, if the Gentleman has an enumeration of the disciplines, we are not averse to enumerating.

Senator Maceda. I would not be averse to restating basically the old enumeration, although I did read — I think one of the Gentleman's witnesses suggesting — that at least, one member of the Board should have a graduate degree in Economics. I am not going that far but...

Senator Roco. That was the type of discussion that we were trying to avoid, Mr. President.

Senator Maceda. Could we therefore just reserve that. We will try to come up with a list of disciplines, if that is the suggestion of the Sponsor.

The President. We will reserve that point to a later discussion.

Senator Roco. Yes, Mr. President.

The President. Going back to Senator Tolentino. On page 4 under Disqualification, maybe, the Gentleman can introduce the concept. We will hold it back, too.

Senator Tolentino, we will....

Senator Tolentino. It may perhaps, be inserted somewhere in....

The President. Probably, the proper place to insert that is on page 4 under Section 8 — Disqualification.

Senator Tolentino. No. This disqualification refers to disqualification for any other office while they are already members of the Monetary Board.

The President. No. There is also a disqualification from being a member of the Monetary Board on lines 14 to 21.

Senator Tolentino. Mr. President, maybe, we can try to formulate it here somewhere between lines 14 to 21.

The President. So, in the meantime, we will move on to other pages. Any other amendment on page 4?

Senator Lina. Mr. President.

The President. Senator Lina, then Senator Gonzales.

Senator Lina. On line 3, page 4, I move that between the words "consultant" and "or," insert the words "LAWYER, AGENT."

The President. What is the pleasure of the Sponsor?

Senator Roco. We can accept, Mr. President.

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

Senator Gonzales. I just want to put into the *Record* the intention of Section 8, page 4.

Is this intended to limit the divestment provisions of the Code on Ethical Conduct of public officers and employees? Or, is this intended merely to amplify or even to expand its provisions?

Senator Roco. Which section are we referring to?

The President. Section 8.

Senator Roco. No, this was meant to amplify.

Senator Gonzales. To amplify.

Senator Roco. Yes.

Senator Gonzales. It is not intended to limit the scope of its application.

Senator Roco. No. In fact, I was under the impression that the original wordings of this said something to the effect like "in addition to the disqualifications..."

Senator Gonzales. I think we should make it plain, because it could be interpreted that we are providing for a different rule on divestment under Section 8 limiting it only to director, officer, employee, consultant or stockholder of any bank, quasi-banks or any other institution. How about other businesses which may not be banks, quasi-banks, and yet whose businesses present a conflict of interest with their position?

Senator Roco. Yes, Mr. President. The Sponsor will be willing to accept a preliminary phrase or at the beginning which says: "IN ADDITION TO THE DISQUALIFICATIONS IMPOSED BY REPUBLIC ACT — whatever number..."

Senator Gonzales. I join the Sponsor with respect to that amendment.

The President. Is there any objection? [Silence] Subject to style, the amendment is accepted.

Page 4A? Page 5? Page 6?

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

GUINGONA AMENDMENT

Senator Guingona. Page 5, Section 12. This has been amended last night, Mr. President. And with the permission of Senator Maceda who made an amendment to the amendment changing the word "exclusive" to "INCLUSIVE," may I ask that the same be amended to restore the word "exclusive of any allowances granted to other government officials as the Monetary Board may fix provided the same shall not exceed one-half of the salary of the..."

Senator Roco. What line are we looking at?

Senator Guingona. The amendment approved last night, Mr. President, I do not know what line. It is not incorporated here.

Senator Roco. Hold on, Mr. President, because I am looking at the submissions of the Gentleman in the amendment which we read. May we just request whoever was drafting the bill, because I assume there is some mechanism for catching all these, otherwise the repository of all these amendments will be me. And as we read, I would guess, Mr. President, in the ordinary course some people in the Secretariat is catching it so that I do not have to call attention to them.

The approved amendment last night, Mr. President, reads: "The SALARY of the Governor of the Bangko Sentral and the

full-time members of the Monetary Board shall be fixed by the President of the Philippines, UPON RECOMMENDATION OF THE MONETARY BOARD, at a sum which recognizes the importance and responsibility of the position: *Provided*, THAT THE SALARY OF THE GOVERNOR SHALL IN NO CASE EXCEED ONE HUNDRED FIFTY THOUSAND PESOS (P150,000.00) A MONTH, AND THE FULL-TIME MEMBERS, ONE HUNDRED TWENTY THOUSAND PESOS (P120,000.00) A MONTH, EXCLUSIVE OF ANY ALLOWANCES NORMALLY GRANTED TO OTHER GOVERNMENT OFFICIALS, AS THE MONETARY BOARD MAY FIX."

This was modified, Mr. President, on motion of the Gentleman from Manila, and there is a request here for a reconsideration so that instead of "inclusive" we put back the original word "exclusive."

Senator Guingona. Yes, with the additional limitation. "Provided, however" at the end, "that said allowances shall not exceed one-half of the salaries."

The President. What does the Sponsor say?

Senator Roco. It is accepted, Mr. President.

The President. Is there any objection? [Silence] Hearing none, the same is approved. The stenographer is directed to reproduce now immediately that Section 12 for distribution to the Members.

Page 6, page 7, page 7-A, page 8.

Senator Lina. Mr. President.

The President. Senator Lina is recognized.

Senator Lina. On line 34, Mr. President, of page 8, between the words "responsibilities" and "to," insert the phrase "without additional remuneration or allowance."

SUSPENSION OF THE SESSION

Senator Roco. May I just have a one-minute suspension, Mr. President?

The President. One-minute suspension of the session, if there is no objection. [There was none.]

It was 2:28 p.m.

RESUMPTION OF THE SESSION

At 2:29 p.m., the session was resumed.

The President. The session is resumed.

Senator Lina. Again on line 34, Mr. President, page 8...

Senator Tolentino. Mr. President.

The President. With the permission of Senator Lina, Senator Tolentino has an amendment on page 7.

Senator Tolentino. I would like to make a modification on line 4, the phrase "acts of omission." I think they are contradictory. An act is positive, an omission is negative. Will the distinguished Sponsor not consider substituting "acts of omission" with "malfeasance or misfeasance"?

The President. So we are referring to page 7A, Section 18, line 4.

Senator Roco. There is a typographical error here, Mr. President. It should really be "ACTS OR OMISSION."

Senator Tolentino. It is "OR."

Senator Roco. Yes, Mr. President. But it appears here as "of."

Senator Tolentino. If it is "acts or omission," then I withdraw my proposal, Mr. President.

The President. So the word "of" should be "OR."

Senator Roco. Yes, Mr. President.

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

Going back to page 8.

Senator Lina. Mr. President.

The President. Senator Lina is recognized.

LINA AMENDMENT

Senator Lina. Line 34, Mr. President, between the words "responsibilities" and "to," insert the phrase "WITHOUT ADDITIONAL REMUNERATION OR ALLOWANCE."

The President. If I may suggest, can we insert that on line 35 after the word "board"?

Senator Lina. Yes, Mr. President.

The President. So that it will read: "...THE GOVERNOR MAY ASSIGN SPECIFIC TASKS OR RESPONSIBILITIES TO ANY FULL-TIME MEMBER OF THE MONETARY BOARD WITHOUT ADDITIONAL REMUNERATION THEREFOR WHENEVER HE DEEMS FIT."

Senator Lina. "REMUNERATION OR ALLOWANCE," just to cover that possible loophole.

The President. "REMUNERATION OR ALLOWANCE." What is the pleasure of the Sponsor?

Senator Roco. We accept, Mr. President.

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

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. I think this whole sentence could be simplified starting with line 29. To begin with, I wonder on line 29 whether we want to put a period (.) after the word "Sentral" or we want to put a comma (,) and make the "T" a small "t."

Senator Roco. It should really be a period (.), Mr. President.

Senator Maceda. It should be a period (.).

The President. There should be a period (.) after the words "Sentral" and "The" on line 29.

Senator Roco. Yes, Mr. President.

MACEDA AMENDMENT

Senator Maceda. So, clarifying that, it should read something like this: "the Governor may delegate certain of his administrative responsibilities to other officers OR MAY ASSIGN SPECIFIC TASKS OR RESPONSIBILITIES TO ANY FULL-TIME MEMBER OF THE MONETARY BOARD subject to the rules and regulations as the Monetary Board may prescribe."

Senator Roco. Subject to styling, Mr. President, we accept.

The President. And incorporating the concept "THAT NO EXTRA PAY OR ALLOWANCE WILL BE GIVEN AS A RESULT OF THAT DELEGATION."

Senator Roco. Yes, Mr. President.

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

Page 9... page 10?

Senator Tolentino. On page 10, Mr. President.

The President. Senator Tolentino is recognized.

TOLENTINO AMENDMENT

Senator Tolentino. On page 10, line 4, a very minor amendment, Mr. President. After the words "private counsel," just insert "FOR EACH CASE."

The idea is that, in every case, employing counsel will be limited to every case and not to a continuous retainer.

Senator Roco. It is accepted, Mr. President.

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

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, being one of the big institutions requiring constant legal advice, does the distinguished Proponent not feel that the Bangko Sentral may need legal advice even if there is no actual case?

Senator Tolentino. They have a legal division, Mr. President. The Bangko Sentral has a legal unit.

Senator Guingona. Yes, it has, Mr. President, but they have assigned specific tasks. This one would oversee the projections of programs that are scheduled for the legal aspects.

Just as in a corporation, while there is a legal division, here is often an outside counsel to really look into the broader aspects of the corporation.

Senator Tolentino. Yes, Mr. President. If there are specific assignments given to a law office, a private law office, for instance, in particular, what I want to prevent is having a contract for a retainer for years that will go on when there is a legal counsel in the bank and they can still get counsel for each individual case. Maybe we can phrase it in such a way that we have for each case or for each task or something like that.

Senator Guingona. Yes, so that it will not really require a litigation, Mr. President. That is all that I wanted.

Senator Roco. Mr. President.

The President. The Sponsor is recognized.

Senator Roco. Without arguing either way, and I leave it to the Gentlemen to choose, may we just share, as somebody who practiced law.

It is more costly when we are on a case to case. It is cheaper when it is retainer because the retainer may cover depending on the agreement. So, if you are hired on a case to case basis, there is a higher billing and, therefore, the law firms may even like that. If, on the other hand, one is contracted out on a retainer basis, he may have a fixed compensation where he cannot have special billings. It is of no interest, whatsoever to me, Mr. President, and so I leave it to the Gentlemen to choose which option is best in their judgment.

The President. Perhaps this is not the proper provision to describe the type of representation of counsel to the Central Bank because we are referring here to the duty of the Governor to represent the Monetary Board. So, if we can just postpone that discussion to the appropriate provision, I think we ought to reconsider the action of the body on the Tolentino Amendment.

Senator Tolentino. We may give some thought to the remarks of the distinguished Sponsor, but I think when this provision refers to including employment of counsel, there may be some reason for his inserting some qualification on that.

Senator Roco. Yes.

Senator Tolentino. But I have no objection to coming back to this point later on when we have more time to do so.

The President. Yes. We will go back to this, well, not probably to this provision but to the appropriate provision where we can describe the type of legal engagement that the Monetary Board will be authorized to undertake.

Senator Maceda is recognized.

Senator Maceda. I have a question with regard to the next paragraph. Is the Gentleman through with that....

The President. Any more question on page 10?

Senator Maceda. Yes, "d," next paragraph.

The President. All right.

Senator Maceda. Mr. President, I need some clarification on this capitalized amendments. If we read this the way it is written, the first concept is that..."THE GOVERNOR SHALL

NOT PARTICIPATE IN PRELIMINARY DISCUSSIONS," et cetera. And the next sentence is, in that prohibition not to participate, "HE SHALL BE ASSISTED BY A PERMANENT NEGOTIATOR." That is how it reads.

I think the second sentence does not reflect what the proponent of the amendment really wanted to say.

Does it mean that in lieu of the Governor, there should be another permanent negotiator who shall participate? Or does it mean to say that if it is not a preliminary discussion in the principal discussion he shall be assisted by a permanent negotiator?

Senator Roco. This was recommended, Mr. President, by the Lady from Pangasinan. And as I understood it, what was intended to be transmitted is that the Governor of the Central Bank should not depreciate his position by getting into the preliminary discussions, that he should be represented by some other people in those instances.

Senator Shahani. Mr. President.

The President. Senator Shahani is recognized.

Senator Shahani. Mr. President, the intention here is to prevent the constant traveling of the Chairman of the Central Bank as we have seen, and that he should participate only in the final negotiations. During the preliminary stage, he should have the assistance of someone who has the full powers of a negotiator but who will not outrank the Chairman of the Central Bank. And he is really there to prepare the way for the final negotiations.

The truth of the matter, Mr. President, is, I think the Chairman of the Central Bank as well as the Secretary of Finance travel too much to the World Bank and to the IMF. They really meet there, at the preliminary stage of discussions, with lower ranking officials, like Directors or Assistant Directors. I believe it diminishes the stature of the Republic. So, there should be someone on a permanent basis who goes to negotiate at these lower levels of discussions. That is the intention, Mr. President.

Senator Maceda. In which case, what is meant is that the word "assisted" should be changed by a word like "REPRESENTED." "He shall instead be REPRESENTED by a permanent negotiator who shall not outrank the Governor..."

I wonder whether it is appropriate at this time, the Gentlepersion from Pangasinan should automatically give the assistant or the representative of the Governor the rank of Ambassador. Because as the Gentlepersion said, if this is a preliminary discussion where the assistant, let us say a deputy governor is going there just to hold preliminary discussions with

the director or assistant director, maybe even at that time the rank of Ambassador may not be necessary.

Senator Shahani. The intention there, Mr. President, is that he should have the full powers to negotiate. I think that was the intention.

Senator Maceda. So, the concept, subject to style, is: "...Philippines. He shall INSTEAD be REPRESENTED by a permanent negotiator who MAY BE GIVEN the rank of Ambassador but shall not outrank..."

The President. What is the pleasure of the Sponsor?

Senator Roco. If the Gentleman will just allow, who may have the rank of Ambassador? So, maybe that will satisfy the Lady.

The President. Accepted, subject to that qualification.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. To capture the concept of the Gentlemen and the Lady Senator, I think after "Philippines" it should be period (.). Then "DURING THE NEGOTIATIONS he shall be assisted by a permanent negotiator..."

Senator Roco. "WHO MAY HAVE THE RANK..."

Senator Gonzales. Yes. "WHO MAY HAVE..."

The President. I think the word "assisted" and "represented" precisely is the assistance that we are trying to remove, because he ought to be represented by somebody, because the Governor is not required to sit according to this amendment. "HE SHALL INSTEAD BE REPRESENTED..."

Senator Roco. Can I try to recapitulate, Mr. President?

"DURING THE NEGOTIATIONS he shall be REPRESENTED by a permanent negotiator who may have the rank of Ambassador but shall not outrank..."

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

Senator Tatad. It looks like a very worthy proposal. But while I support it, I was wondering whether there is need to put this on the law. Is this not something that can be observed as matter of policy within government?

The President. If we do not put it in law, the government may or may follow the policy or the ...

Senator Roco. Yes. There is some advantage to putting it in the law, Mr. President, only because of the long practice that the Lady from Pangasinan has already alluded to.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is accepted.

Page 10-A.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. On line 9, page 10-A, Mr. President, after the word "organizations," remove the period (.), put a comma (,) in its place and add the following phrases: "...OR WHENEVER, BY DESIGNATION OF THE PRESIDENT OF THE PHILIPPINES, the Governor or the full-time member is tasked to represent the interest of the government or other government agencies in matters connected with or affecting the economy or the financial system of the country."

Senator Roco. The Committee is open to admitting this amendment, Mr. President.

May we just call attention to the possible risk of violating the constitutional prohibition against two positions.

The wordings here, I want to state, is such that it is not meant to allow dual positions.

Senator Guingona. That is correct, Mr. President. It is in the concept of ex officio capacity.

Senator Roco. Yes. If there are no other opinions to be expressed, we are willing to accept, Mr. President, subject to style.

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

Senator Aquino. Mr. President.

The President. Senator Aquino is recognized.

Senator Aquino. Just a matter of style.

On page 10A, lines 8 and 9, "...eleemosynary organizations, and civic, cultural or religious organizations." Why do we have two organizations here?

Senator Roco. Yes. "Organizations" should be deleted the first time.

Senator Aquino. Thank you.

The President. So the word "organizations" on line 8 is deleted. Is there any objection?

Senator Aquino. "Eleemosynary," delete "organizations, and"...

The President. "Organizations, and..."

Senator Roco. No. "Eleemosynary, civic, cultural or religious organizations" and then the amendment of the Gentleman.

The President. But the two words to be deleted on line 8 are "organizations, and".

Senator Roco. Yes, Mr. President.

The President. Is there any other amendment on page 10A?

Page 11.

Senator Maceda. Page 11, Mr. President, line 1, delete the words "one or more" and insert the words "NOT MORE THAN THREE." Therefore, the section will read: "The Governor of the Bangko Sentral with the approval of the Monetary Board shall appoint NOT MORE THAN THREE deputy-governors..."

The President. What is the pleasure of the Sponsor?

Senator Roco. We accept, Mr. President.

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

Is there any other amendment? Page 12.

Senator Tolentino. On page 12, Mr. President.

The President. Senator Tolentino is recognized.

Senator Tolentino. Maybe this is a matter of reconciling.

We notice that on line 5, a bracket has been placed to delete "any person or entity, including." But on line 10, there is a reference to "all such persons and entities."

To reconcile that, we should delete on line 10 the words "of all such persons and entities."

The President. For consistency, yes.

Senator Tolentino. To be consistent with the removal in the first.

The President. What is the pleasure of the Sponsor?

Senator Roco. It is accepted, Mr. President.

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

Senator Tolentino. And I would like to raise a point on line 8. "The Bangko Sentral shall have the power to issue a subpoena." This should be an individual, not the institution. Who in the institution will have the power to issue the subpoena? That should be specified, Mr. President.

The President. What is the suggestion of the Gentleman? Which one in the organization? The Gentleman is saying that we should not leave it as an institutional reference.

Senator Tolentino. We should specify the person, the official who will issue the subpoena.

The President. Yes. Whom does the Gentleman recommend to be that official?

Senator Tolentino. I leave it to the Sponsor.

The President. The Sponsor, maybe, can ask a resource person from the Central Bank on who will...

SUSPENSION OF THE SESSION

Senator Roco. May I be given one-minute recess, Mr. President.

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

It was 2:49 p.m.

RESUMPTION OF THE SESSION

At 2:50 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. Mr. President, we sorted out a formula so that line 8 will read: "The Bangko Sentral, THROUGH THE GOVERNOR OR HIS DULY AUTHORIZED REPRESENTATIVE, shall have the power to issue a subpoena for the

production, et cetera." This was suggested by the Gentleman from Mandaluyong.

The President. The specification would be the Bangko Sentral, through the Governor or his duly authorized representative. What is the pleasure of Senator Gonzales?

GONZALES AMENDMENTS

Senator Gonzales. THE BANGKO SENTRAL THROUGH THE GOVERNOR SHALL HAVE THE RESPONSIBILITY FOR ISSUANCES OR, IN HIS ABSENCE, HIS DULY AUTHORIZED REPRESENTATIVE.

Senator Roco. That is accepted, Mr. President.

The President. So the proposed amendment on line 8 is, in lieu of the word "Bangko Sentral," the Governor or in his absence...

Senator Gonzales. No. The Bangko Sentral THROUGH THE GOVERNOR OR, IN HIS ABSENCE...

The President. The Central Bank through the Governor or in his absence, a duly authorized representative. Is there any objection? [*Silence*] There being none, the same is approved.

Senator Gonzales. On page 13, line 30, after the word "examination," change the period (.) to comma (,) and include the following: "SUBJECT TO THE PROVISIONS OF EXISTING LAWS PROTECTING OR SAFEGUARDING THE SECRECY OR CONFIDENTIALITY OF BANK DEPOSITS, AS WELL AS INVESTMENTS IN DEBT INSTRUMENTS ISSUED BY THE GOVERNMENT OR PRIVATE PERSONS, NATURAL OR JURIDICAL."

Senator Roco. It is accepted, Mr. President.

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

Senator Tolentino. Mr. President.

The President. Senator Tolentino is recognized.

TOLENTINO AMENDMENT

Senator Tolentino. Mr. President, on the same page 13, line 31, I propose to delete the whole paragraph beginning on line 3 until line 17 of page 14. This paragraph refers to restraining order or injunctions.

Mr. President, this is a matter of the Rules of Court, and we should leave it to the provisions of the Rules of Court without making any special provisions here. If we make special provisions here, we might go into the danger of violating the constitutional provision on equal protection of the law. Besides, it is a matter of judicial discretion and, I think, we should just leave the Rules of Court to determine what action a court may take with respect to petitions for injunctions and for restraining orders. That is the reason for my proposal to delete the whole paragraph, Mr. President.

SUSPENSION OF THE SESSION

Senator Roco. 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 2:53 p.m.

RESUMPTION OF THE SESSION

At 2:59 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. Mr. President, may we skip page 13 and come back to it later on, and proceed to page 14, unless there are other anterior amendments.

The President. So we will skip page 13. Page 14. Page 15.

Senator Roco. May we just give credit, Mr. President, for this. The deletions recommended here, and which were approved as Committee amendments, were suggested by Senators Gonzales, Ople, Alvarez and Tolentino.

The President. Section 15.

Senator Roco. No, Mr. President. It is Section 25.

The President. All right, page 15, page 16.

Senator Tolentino. No, page 15, Mr. President.

The Committee has agreed to delete the first paragraph....

Senator Maceda. I have an anterior amendment, Mr. President.

The President. Anterior amendment. Senator Maceda is recognized.

MACEDA AMENDMENT

Senator Maceda. Because the Gentleman from Tarlac was talking to me, so I beg your pardon, Mr. President.

Let me go back, Mr. President, to page 13, Section 24, lines 10 to 19, on the description of the subsidiaries and affiliates. Now, this is the situation I am thinking of. The qualification here of subsidiaries and associates, first, implies a stockholding. This could very well be circumscribed by the usual situation wherein a subsidiary or affiliate there is no stockholding by the bank but its working capital is substantially or greatly due to infusion of loans from a bank and that is indicated by a usual arrangement. And we do this even in the GSIS, PNB and SSS, where directors in the bank are made to sit in the board of directors of these companies or corporations where substantial loans are granted.

I would like, subject to style, to expand the concept of subsidiary or affiliate to include a situation where a substantial amount of loans have been given to what we will consider a subsidiary or an affiliate.

The President. In other words, the concept is that while this definition is confined only to shareholding, this will extend to substantial working capital extended by another bank.

Senator Roco. We accept the concept, Mr. President, subject to style.

The President. Subject to style. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Back to page 14. Page 15.

Senator Tolentino. Page 15, Mr. President. [*Pause*] Mr. President.

Senator Tañada. Mr. President.

The President. Senator Tolentino is recognized; and then Senator Tañada.

Senator Tolentino. I am going to refer to the provisions of the paragraph from line 3 to line 17.

Mr. President, maybe there is reason for the rule that is sought to be provided here, but it is only the phraseology that needs some reformation, because, first, it refers to a person, or director, officer or stockholder who has a loan in his own bank or related banks. It says that "he shall be deemed to have waived the secrecy of their deposits of whatever nature with banks in the Philippines." That means all banks in the Philippines, and that is not the required by the investigation because it is only in the case where he has a loan.

Maybe, that should justify investigation. but not in all banks in the Philippines. Second, I think instead of "he deemed to have waived," because that is presuming something that is voluntary on the part of the depositors, we will provide outright and make an exception to the secrecy of bank deposits.

I understand the idea behind this, Mr. President, but I think the phraseology needs some reformation.

SUSPENSION OF THE SESSION

Senator Roco. May I 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 3:04 p.m.

RESUMPTION OF THE SESSION

At 3:06 p.m., the session is resumed.

The President. The session is resumed.

Senator Tolentino. Mr. President.

The President. Senator Tolentino is recognized.

Senator Tolentino. Mr. President, the distinguished Sponsor handed to me a modification of that paragraph. And with a little modification I would be agreeable to it.

I will read it with the modification I was referring to, that the whole paragraph from line 3 to line 17 shall be deleted, and in lieu thereof, the following shall be inserted:

"ANY DIRECTOR, OFFICER OR STOCKHOLDER WHO, TOGETHER WITH HIS RELATED INTEREST, CONTRACTS A LOAN OR ANY FORM OF FINANCIAL ACCOMMODATION FROM: (1) HIS BANK: OR (2) FROM A BANK (A) WHICH IS A SUBSIDIARY OF A BANK HOLDING COMPANY OF WHICH BOTH HIS BANK AND THE LENDING BANK ARE SUBSIDIARIES OR (B) IN WHICH CONTROLLING PROPORTIONS OF THE SHARES ARE OWNED BY THE SAME INTEREST THAT OWNS A CONTROLLING PROPORTION OF THE SHARES OF HIS BANK, IN EXCESS OF FIVE PERCENT (5%) OF THE CAPITAL AND SURPLUS OF THE BANK, OR IN THE MAXIMUM AMOUNT PERMITTED BY LAW, WHICHEVER IS LOWER, SHALL BE REQUIRED BY THE LENDING BANK TO WAIVE THE SECRECY OF HIS DEPOSITS OF WHATEVER NATURE IN THE LENDING BANK" — I think it

should be limited to the lending bank because the proposal here was given to me — "whatever nature with banks in the Philippines."

That is what is to me objectionable. We cover all banks which will not be.... So — "HIS DEPOSITS OF WHATEVER NATURE WITH THE LENDING BANK: *PROVIDED*, THAT ANY EXAMINATION OF SAID DEPOSITS SHALL BE SUBJECT TO THE CONDITIONS PRESCRIBED UNDER REPUBLIC ACT NO. 1405, AS AMENDED, AND ANY INFORMATION OBTAINED THEREBY SHALL BE HELD STRICTLY CONFIDENTIAL AND MAY BE USED BY THE EXAMINERS ONLY IN CONNECTION WITH THEIR SUPERVISORY AND EXAMINATION RESPONSIBILITY OR BY THE BANGKO SENTRAL IN AN APPROPRIATE LEGAL ACTION IT HAS INITIATED INVOLVING THE DEPOSIT ACCOUNT."

The President. What is the pleasure of the Sponsor?

Senator Roco. Yes, Mr. President, with a very slight modification. In the original wordings we suggested "for all banks in the Philippines."

The President. With the lending bank.

Senator Roco. But then, Mr. President, the borrower can conduit to other banks.

May we ask if the Gentleman is amenable to the original wordings that he waives for all the banks, because he is, after all, borrowing as director, officer or stockholder, really as an exemption to the generally accepted policy that he should avoid DOSRI violation?

Senator Tolentino. That is very unreasonable, Mr. President. That is actually allowing the Central Bank examiner to go into a fishing expedition. The director borrows from his own bank, let us say that is the only bank he has, but he has deposits in other banks, why should we allow an examination of the other banks with the waiver of the secrecy of his deposits? This is something that is unrelated to the objective of the examination. That will give the Central Bank a complete authority over all the banks in which the director/stockholder has a deposit.

The President. In other words, what the distinguished Gentleman is suggesting is that the waiver extends only to those banks which have lent money to the borrower.

Senator Tolentino. Where it is a law, yes. That is the way I read it, Mr. President.

The President. And the deposit should not be opened in all banks where he has no extension.

Senator Roco. We accept it, Mr. President.

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

Senator Tañada is recognized.

TAÑADA AMENDMENT

Senator Tañada. On the same page, Mr. President, lines 29 to 32, I propose that we delete the following words appearing after the word "any" on line 29: "banking institution which has pending official business with the personnel concerned, in consideration of any action or assistance given or to be given." In place of that, Mr. President, insert the following after the word "any" on line 29: "INSTITUTION SUBJECT TO SUPERVISION OR EXAMINATION BY THE BANGKO SENTRAL."

This amendment would expand the prohibition from banks only with official business to all institutions under the supervision of the Bangko Sentral, regardless of whether or not they have pending official business and regardless of whether or not benefit is given in consideration of assistance given.

Senator Roco. It is accepted, Mr. President.

The President. Is there any objection? [Silence] Hearing none, the amendment is accepted.

Page 16.

Senator Lina. Mr. President.

The President. Senator Lina is recognized.

LINA AMENDMENT

Senator Lina. Anterior amendment also on page 15, line 21, similar to an amendment I introduced earlier which is already accepted. After the word "consultant," place a comma (,), and then add "LAWYER, AGENT."

The President. What is the pleasure of the Sponsor?

Senator Roco. I am trying to read the full text, Mr. President.

The President. In other words, he cannot be an officer, director, lawyer or agent of any institution subject of supervision or examination.

Senator Roco. All right, Mr. President. It applies to the personnel.

The President. Is there any objection? [Silence] Hearing none, the amendment is accepted.

Page 16.

Senator Maceda is recognized.

Senator Maceda. Mr. President, this is not really an amendment. I just want to insert into the *Record* a clear interpretation. May I know from the Sponsor whether on line 2, when he uses his word "THE CONGRESS," it means to say "any of its duly authorized committees."

Senator Roco. That is correct, Mr. President.

Senator Maceda. Thank you. That would be sufficient.

Senator Tañada. Mr. President.

The President. Senator Tañada is recognized.

TAÑADA AMENDMENTS

Senator Tañada. On page 16, line 10, before the word "Borrowing," insert letter "D," a half-bracket after letter "D." It is a matter of style, Mr. President.

Senator Roco. We accept, Mr. President.

The President. Is there any objection? [Silence] Hearing none, the amendment is accepted.

Senator Tañada. On lines 13 to 15, after the word "prohibited" on line 13, delete the following words "only with respect to the particular institution in which they are assigned or are conducting an examination."

And on the same line 13, Mr. President, after the word "Sentral," insert the following words: "INCLUDING PERSONNEL OF OTHER DEPARTMENTS, OFFICES OR UNITS ASSIGNED TO EVALUATE, PROCESS, AND ACT UPON APPLICATIONS OF FINANCIAL INSTITUTIONS WITH THE BANGKO SENTRAL."

I have other amendments, more or less, of the same tenor.

The rationale behind these proposed amendments is to seek to tighten the screw further with respect to borrowings by Bangko Sentral personnel from financial institutions under its supervision. The proposed amendment will make the prohibition apply regardless of whether or not the borrower is assigned to the particular institution.

Senator Roco. May we first accept the amendment on lines 13 to 15 so that it can be acted on, Mr. President.

The President. Go ahead, please.

Senator Roco. So, we accept, and if there is no objection...

The President. So, the deletion of the phrase "only with respect" up to "examination" is accepted.

Senator Roco. There will be a broader prohibition, subject to style.

The President. All right. Is there any objection to the amendment? [*Silence*] Hearing none, the same is approved.

The second amendment.

Senator Tañada. The second amendment, Mr. President, would be on lines 20 to 27, after the word "secured (.)" on line 20. Delete the sentence after that, beginning with the word "Personnel" up to —

Senator Roco. "Personnel."

The President. "Personnel" on line 15.

Senator Tañada. — the word "applicable" on line 27, Mr. President.

The President. Let us act on that first.

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension because we may be reading it differently, Mr. President.

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

It was 3:18 p.m.

RESUMPTION OF THE SESSION

At 3:21 p.m., the session was resumed.

The President. The session is resumed.

Senator Tañada is recognized.

Senator Tañada. Mr. President, after conferring with the Sponsor, my proposed amendment would be to delete the sentence on line 20, after the word "secured," including and up to line 33.

Senator Roco. Just for the record, Mr. President, where will the personnel of the Central Bank borrow money just in case they need to borrow?

Senator Tañada. They could borrow from their credit cooperatives —

Senator Roco. Yes, that requires full security.

Senator Tañada. — provident funds or they could borrow from government banks like the PNB.

Senator Roco. They are under supervision of the Central Bank, the PNB.

Senator Tañada. It is still debatable, of course. To avoid the classification, Mr. President, I would say that they could borrow only from their credit cooperatives or provident funds organized exclusively for Bangko Sentral personnel.

Senator Roco. Maybe, we should submit it to the Floor, Mr. President, because it is punishing to the personnel. Here we are trying to increase their salaries but we are depriving them of the ability to borrow. It will be very difficult, like in these times, if they cannot borrow anywhere else, except from the cooperative. But I leave it to the Floor, if the judgment of the Body wishes to delete that.

The President. What about a compromise that they can borrow from any banking institution, but they must fully disclose to the Monetary Board, and under such terms and conditions as the Monetary Board may prescribe? Because on the one hand, an absolute prohibition against borrowing by Central Bank personnel may be too harsh; but on the other hand, we need to also provide standards and guidelines in order to obviate conflict of interest or undue advantage given to any particular banking institution in case of borrowing.

So as a compromise, as a mechanism, perhaps, we may allow borrowing under such terms and conditions as the Monetary Board may prescribe and upon full disclosure to the Monetary Board.

Senator Roco. That is what lines 28 to 33 state. The personnel of the Bangko Sentral, when they borrow, shall be fully secured, fully disclosed to the Monetary Board and subject to such other further rules and regulations.

Senator Tañada. Perhaps, Mr. President, if the deletion will go only as far as line 27 and then on line 28, after the word "by" we delete the word "all" and in lieu thereof, insert "OTHER," so that "Borrowing by OTHER full-time Bangko Sentral personnel"....

Senator Roco. ...How is that?

Senator Tañada. We delete only up to line 27, and then on line 28, we delete the word "all" appearing after the word "by" and insert in lieu thereof the word "OTHER." So that it would read, "borrowing by OTHER full-time Bangko Sentral personnel."

The President. Yes, but this is applicable to all, Senator Tañada.

Senator Roco. Yes, it applies to all.

The President. So it is not just applicable to full time. It is applicable to all full time. I think it can stay as is.

Senator Roco. Thank you, Mr. President.

The President. So, let us take up the first amendment — to delete from line 20 beginning with the word "personnel" up to line 27 ending with the word "applicable."

What is the pleasure of the Sponsor?

SUSPENSION OF THE SESSION

Senator Roco. May I have again 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 3:26 p.m.

RESUMPTION OF THE SESSION

At 3:31 p.m., the session was resumed.

The President. The session is resumed.

Senator Tañada is recognized.

Senator Tañada. Yes, Mr. President.

It seems that my amendment would be considered as too harsh to the Bangko Sentral personnel. So after conferring with the principal Sponsor, Mr. President, I move that we reconsider the approval of my previous amendment, and I will instead propose a new one.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is reconsidered.

Senator Tañada. So on page 16, Mr. President, delete the words starting from "examiners and other" on line 11 up to line

27, and then insert the words: "ITS PERSONNEL" after the word "Sentral" on line 11, and the words: "UNLESS SAID" before the word "Borrowing" on line 28. So that this paragraph (b) will now read as follows: "Borrowing from any institution subject to supervision or examination by the Bangko Sentral by ITS PERSONNEL shall be prohibited UNLESS..."

Senator Roco. May I restate it for the Gentleman, Mr. President, because the opening sentence is: "The following are prohibited."

Senator Tañada. All right.

Senator Roco. Maybe what the Gentleman wants to say is: "Borrowing from any institution subject to the supervision or examination by the Bangko Sentral UNLESS FULLY SECURED AND FULLY DISCLOSED TO THE MONETARY BOARD AND SUBJECT TO SUCH FURTHER RULES AND REGULATIONS AS THE MONETARY BOARD MAY PRESCRIBE."

Senator Tañada. Yes. "UNLESS SAID BORROWINGS SHALL BE ADEQUATELY SECURED AND FULLY DISCLOSED TO THE MONETARY BOARD AND SHALL BE SUBJECT TO SUCH FURTHER RULES AND REGULATIONS AS THE MONETARY BOARD MAY PRESCRIBE."

Senator Roco. The amendment is accepted, Mr. President.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. I have a little problem with that formulation, because I still believe in maintaining the first line 10 to 15 to the effect that examiners examining a particular bank are prohibited from borrowing from that bank. What we are saying is, we make it difficult for them to borrow from all banks, that is why we are reformulating it.

I think that the proposed amendment is fine, but it should be after "examination" on line 15. Meaning to say, the first rule should be maintained that no examiner and other personnel of the supervising and examining department shall be allowed to borrow from the bank that they are examining.

The President. Perhaps, we can add that *colatilla*, that proviso at the end of the sentence. "Provided, however, that personnel of the Supervising and Examining Departments are prohibited from borrowing from a bank under their supervision or examination." What is the pleasure of the Sponsor?

Senator Roco. Where will we put it, Mr. President?

The President. At the end of the sentence that the Gentleman just stated.

Senator Roco. Subject to style, Mr. President, it is accepted.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is accepted. Page 17.

Senator Tañada. Mr. President.

The President. Senator Tañada is recognized. And then Senator Tolentino.

Senator Tañada. Page 17, lines 19 to 22.

Senator Tolentino. Anterior amendment.

The President. Anterior amendment.

TOLENTINO AMENDMENT

Senator Tolentino. On page 17, line 3, delete the words "at least" at the end of the line.

Senator Roco. It is accepted, Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is accepted.

Senator Tolentino. On line 5, delete the words "either he or" so that the phrase would read "AND AT SUCH OTHER TIMES AS THE MONETARY BOARD."

Senator Roco. It is accepted, Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is accepted.

Senator Tolentino. And between "Board" and "may," insert the words "BY TWO-THIRDS VOTE."

Senator Roco. Where is this, Mr. President?

Senator Tolentino. Line 5, Mr. President. "THE MONETARY BOARD, BY TWO-THIRDS VOTE, MAY DEEM EXPEDIENT."

Senator Roco. It is accepted, Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is accepted.

Senator Tolentino. Then on line 6, after the word "Board," change the period (.) to a colon (;) and add the following: "PROVIDED THAT THERE SHALL BE AN INTERVAL OF

AT LEAST TWELVE MONTHS BETWEEN ANNUAL EXAMINATIONS."

The President. In other words, that the examination must not be oftener than one year or 12 months.

Senator Tolentino. The reason for this is that sometimes the examiners may take their time and they have a long examination of the bank.

SUSPENSION OF THE SESSION

Senator Roco. Mr. President, may we have 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 3:38 p.m.

RESUMPTION OF THE SESSION

At 3:39 p.m., the session was resumed.

The President. The session is resumed. What is the pleasure of the Sponsor?

Senator Roco. Subject to style, Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is accepted.

Page 18.

Senator Tolentino. Another amendment on that page, Mr. President.

The President. Page 17. Senator Tolentino.

Senator Tolentino. Line 10, Mr. President. At the end of the line, after the word "time," insert the words "DURING OFFICE HOURS."

Senator Roco. It is accepted, Mr. President.

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

Is there any amendment on the same page?

Senator Tañada. Mr. President.

The President. Senator Tañada is recognized.

TAÑADA AMENDMENT

Senator Tañada. On page 17, lines 19 to 22, delete the words appearing after "Sentral" on line 19 up to the word "purpose" on line 22.

Senator Roco. What page is this, Mr. President?

The President. Page 17, lines 19 to 22.

Senator Tañada. Yes, Mr. President. I am proposing to delete the following words: "shall reimburse the Bangko Sentral for the cost of maintaining the corresponding supervising and examining department and, for this purpose..."

My reason is that, financial institutions should be made to pay flat annual fees based on a predetermined formula and should not be made to reimburse particular expenses by the supervising and examining department.

Senator Roco. Subject to style, Mr. President, it is accepted.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is accepted.

Page 18.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

MACEDA AMENDMENT

Senator Maceda. Line 15, Mr. President, after the word "remuneration," insert the following words: "TO BE FIXED BY THE MONETARY BOARD BUT NOT TO EXCEED TWO-THIRDS OF WHAT THE PRESIDENT OF THE INSTITUTION RECEIVES." Meaning to say, we delete also in the process the words "equal to."

Senator Roco. It is accepted, Mr. President, subject to style.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is accepted.

Senator Rasul. Mr. President.

The President. Senator Rasul is recognized.

Senator Rasul. Anterior amendment, Mr. President, on page 4, line 16, I propose to delete the word "multilateral."

The President. There is a pending amendment of Senator Tolentino on this particular provision. So maybe we can take the Lady Senator's and Senator Tolentino's amendments together.

Senator Rasul. In that case, Mr. President, on page 4A, line 18, after the word "quorum," delete the period (.) and add this phrase: "PROVIDED THAT IN ALL CASES THE GOVERNOR SHOULD BE AMONG THE FOUR."

The President. What is the pleasure of the Sponsor?

Senator Roco. The Monetary Board might be hamstrung, Mr. President, because we have a proviso where the Governor, if absent, can designate somebody else to act as Chairman. We will cripple the Monetary Board if the Governor is not there.

May we ask the Lady, because if we require always his presence, then the moment he is not there, he will have problems.

RASUL AMENDMENT

Senator Rasul. Yes, Mr. President. In that case, I would like to revise my amendment: PROVIDED, THAT IN ALL CASES THE GOVERNOR OR HIS DULY AUTHORIZED REPRESENTATIVE SHOULD BE AMONG THE FOUR."

Senator Roco. It is accepted, Mr. President.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is accepted.

Going back to page 18, is there any other amendment on page 18? [*Silence*] Page 19, 20, 21, 22?

Senator Tolentino. Page 22, Mr. President.

The President. Senator Tolentino is recognized.

TOLENTINO AMENDMENTS

Senator Tolentino. On page 22, line 9, after the words "Civil Code," we change the period (.) to a comma (,) and add the following: "EXCEPT THAT THE CLAIMS OF DEPOSITORS SHALL HAVE THE HIGHEST PRIORITY."

Senator Roco. It is accepted, Mr. President, subject to style.

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

Senator Tolentino. Lower down the page, line 32, between the words "not" and "more", insert "LESS THAN ONE YEAR NOR." We are just placing a minimum to the period of imprisonment.

Senator Roco. It is accepted, Mr. President.

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

Page 22? 23?

Senator Tolentino. Page 22, Mr. President, just the same kind of amendment. Page 23, line 19, between the words "not" and more," insert "LESS THAN TWO (2) YEARS NOR." We are just making a minimum period of time for imprisonment.

Senator Roco. Accepted, Mr. President.

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

Page 24?

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. On line 16, page 24, Mr. President, this paragraph starts all the way back to line 23 and this could be imposed upon any bank who has a bank director or officer, et cetera, I find the maximum amount of P10,000 too low. Anyway, this is a maximum amount and any amount could be imposed within the maximum. I would rather see this at P100,000, Mr. President.

The President. This is a per day fine.

Senator Maceda. But if it is in the nature of a not a daily type of violation, Mr. President.

The President. If it is a one-time violation, rather than a continuing one, then we impose the fine appropriate to the violation. Like false statement under Section 33. Correct me, Mr. Sponsor, if I am mistaken.

MACEDA AMENDMENT

Senator Maceda. So, may we go back to the original P30,000, Mr. President?

The President. What is the pleasure of the Sponsor?

Senator Roco. It is accepted, Mr. President. That was the original.

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

Senator Maceda. On line 17, Mr. President, I think it would be clearer if we delete the words "type of" because "type" is a group, a generic type.

The President. For each violation.

Senator Maceda. For each violation.

Senator Roco. Accepted, Mr. President.

Senator Maceda. Thank you.

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

Senator Tolentino. Mr. President.

The President. Senator Tolentino is recognized.

TOLENTINO AMENDMENT

Senator Tolentino. On the same page, page 24, lines 21 and 22, I propose that we delete that paragraph b). The reason, Mr. President, with respect to suspension, is that the suspension power is embodied in the next page, page 25. "The Monetary Board may, whenever warranted by circumstances preventively suspend any director..." et cetera.

Senator Roco. It is accepted, Mr. President.

Senator Tolentino. And with respect to removal...

The President. Let me first put it to a vote. The amendment of Senator Tolentino has been accepted. Is there any objection? [Silence] Hearing none, the amendment is approved.

Senator Tolentino. Thank you, Mr. President.

The President. Page 25? 26? Senator Herrera.

Senator Herrera. Just a minor amendment, Mr. President. Can we go back to page 22, line 9?

The President. Page 22, line 9.

Senator Herrera. Line 9. After the word "of," insert "CLAIMS," and after "Civil Code" delete the period (.) and insert the phrase "AND THE LABOR CODE."

The President. Yes. But there is a Tolentino amendment here, after the "Civil Code" "EXCEPT THAT THE CLAIMS OF DEPOSITORS HAVE THE HIGHEST PRIORITY."

Senator Herrera. I will try to reconcile this, Mr. President. But in the meantime, I will withdraw my proposal.

The President. All right.

Let us go back to page 26. Is there any amendment to page 26?

Senator Aquino. Mr. President.

The President. Senator Aquino is recognized.

Senator Aquino. Back to page 24. If we eliminated lines 21 and 22, to make it formal, change the corresponding letters, Mr. President.

The President. It is just a matter of sequence. Change letter (c) to (b), et cetera. We will instruct draftsmen to make the corresponding changes.

Senator Roco. And all other matters of style, maybe, Mr. President, we can handle it later on.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

MACEDA AMENDMENT

Senator Maceda. On page 25, line 6. It is our experience, Mr. President, even in nonsensitive office that this threat of a 90-day suspension no longer operates as a deterrent. The part of this is really a deterrent factor. So, subject to the preference of the Sponsor, I would like to increase this 90 days to either 120, 150 or 180 days.

Senator Roco. To 120 days, Mr. President.

Senator Maceda. To 120 days, Mr. President.

The President. The length of the preventive suspension.

Senator Roco. That is correct, Mr. President. It is accepted.

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

Page 26? Page 27?

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

TATAD AMENDMENT

Senator Tatad. On page 27, line 18, Mr. President, between the words "shall" and "submit," I propose to insert the phrase "PUBLISH AND."

On line 19 after the word ""Congress" delete the comma (,) and the words thereafter "and shall publish."

The President. Can we take it one by one, please?

Line 18?

Senator Roco. It is accepted, Mr. President.

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

Line 19?

Senator Roco. It is accepted also, Mr. President.

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

Senator Tatad. On line 20, Mr. President, between the words "Sentral and a," delete the word "and," and in lieu thereof insert the word "INCLUDING."

Senator Roco. It is accepted, Mr. President.

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

Page 28.

MACEDA AMENDMENTS

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Anterior amendment on page 26, Mr. President. On line with the previous amendment on line 8, may we propose the increase of this amount to P10,000.00.

The President. On line 8, the fine of P5,000.00 is increased to P10,000.00. What is the Sponsor's pleasure?

Senator Maceda. That is not exceeding anyway or not in excess.

Senator Roco. It is accepted, Mr. President.

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

Senator Maceda. On line 9, remove the words "type of."

it elsewhere and bring in a few more duties and functions for such an office.

Senator Roco. It is accepted, Mr. President.

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

Back to page 27.

Senator Shahani. Mr. President.

The President. Senator Shahani is recognized.

Senator Shahani. Page 28, line 18, Mr. President.

Senator Tatad. Anterior amendment, Mr. President.

The President. Senator Tatad, anterior amendment.

Senator Tatad. On page 28, line 15.

Before I propose my amendment, may I know from the distinguished Sponsor whether the annual report to be published here as indicated on line 15 is the same annual report referred to on page 27?

Senator Roco. Yes, Mr. President, although it allows the possibility of being different. But, maybe, the Gentleman would want to listen to the Gentle Lady who is the author of this amendment.

The President. Can we ask Senator Tatad to withhold his amendment until the....

Senator Tatad. May we ask the distinguished Gentle Lady from Pangasinan to kindly clarify this particular amendment?

Senator Shahani. Yes, Mr. President, it is the same report. But instead of coaching it in very technical terms, I think the intent of this amendment is to make it understandable and to be put in layman's language.

Senator Tatad. Thank you for that clarification.

The second point that I would like to clarify is that the paragraph proposes the creation of a public information office specifically for the purpose of publishing and distributing this annual report and any relevant information.

I wonder if the provision of Section 36 is not sufficient to allow the Monetary Board to create a public information unit, if required or if there is need to specify. I wonder if we could locate

SHAHANI AMENDMENTS

Senator Shahani. Mr. President, I have no objection. I think the purpose here is to make sure that the public has access to what can really be revealed to the public, so to speak. I think one of the main thrusts of the debate on this bill was the fact that there was so much secret and hidden information and, I think, we should make a major effort to educate the public in matters of monetary and fiscal policy.

So I would still insist on the establishment of a public information office, and whether that is to include other functions, I have no objection, Mr. President.

Senator Tatad. Mr. President, in the light of the clarification, may I propose an amendment by substitution of this particular amendment. The following sentence is proposed in lieu of what exists now on lines 15 to 20: "SUCH ANNUAL REPORT SHALL BE WRITTEN IN A MANNER UNDERSTANDABLE TO THE LAYMAN AND SHALL BE MADE AVAILABLE TO THE PUBLIC." And I propose that we find a more suitable place for the creation of a public information office.

Senator Shahani. Mr. President, I do not know whether that fulfills the purpose. The annual report we are speaking of will have to be submitted in full and *in toto* to the President and to the Congress. And I suppose this will be fairly —

The President. The Proponent does not accept the amendment.

Senator Shahani. — technical paper. I think what I would want is another document simpler and more to the point for public consumption. So it will still be the annual report, but written in layman's language.

The President. Anyway, the Proponent does not accept the amendment.

Senator Tatad. It is not the same document. From the annual report to the President, the Monetary Board is to publish one for popular consumption. That is the idea.

So, Mr. President, we can say that in addition to the annual report, the Bangko Sentral shall publish it, I think, and then subject to modification and style.

Senator Shahani. Yes, I think that meets the...

Senator Roco. Subject to style, Mr. President, yes.

The President. Subject to style. Is there any objection? [Silence] The amendment is accepted.

Senator Shahani. Mr. President, also on line 18, instead of saying, at the end of the line, "AT REASONABLE HOURS," I think we can just say, "DURING OFFICIAL HOURS."

Senator Roco. It is accepted, Mr. President.

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

Page 28A. Senator Lina is recognized.

Senator Lina. On page 28, Mr. President.

The President. Senator Lina. Page 28. What line?

Senator Lina. Lines 20 and 21, an additional paragraph. Before I introduce the amendment, let me ask this question of Senator Roco. What happens if the reportorial requirement is not complied with? It has been observed that even the Monetary Board for the past so many years has failed to report to Congress the amount of foreign debt that had been incurred and there is supposed to be a periodic reporting which has not been observed.

Senator Roco. It is punished, I think, in some other sections, Mr. President.

Senator Lina. Is there any penalty or sanction, Mr. President?

Senator Roco. Yes, Mr. President.

Senator Lina. I was about to introduce an amendment that failure to comply with the reportorial requirements under Article V shall cause the withholding of the salary of the concerned personnel after the proper reports have been made.

Senator Roco. I believe it is covered by Section 34, Mr. President.

Senator Lina. If it is already covered in another article or section, I will not pursue the amendment, Mr. President. But if it is not covered as clearly as that, then I will have to introduce my amendment. I have not seen a provision to that effect, Mr. President.

Senator Roco. We can go back to it, Mr. President, as we look for the appropriate section.

Senator Lina. Then I will not pursue my amendment at this point, Mr. President.

The President. The amendment is withdrawn temporarily.

Page 28-A. Page 29.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

MACEDA AMENDMENT

Senator Maceda. Mr. President, this is one of the matters that we have debated at length. This is Section 43. "Should the Bangko Sentral incur net losses during any fiscal year, such losses shall be debited to surplus, and if surplus be inadequate the Bangko Sentral shall request for budgetary allocation from Congress to cover such losses."

To be generous, Mr. President, and I premise it that way, would the Sponsor agree to putting a period after "surplus" and leave the matter open-ended?

Senator Roco. Mr. President, would the Gentleman be happy if instead of making it "shall request," it should be "MAY REQUEST." After all, Congress may or may not grant it.

Senator Maceda. Mr. President, that is also one form of it. The formulation I am suggesting is there is no prohibition from their coming to Congress for such request, but it seems that pursuant to the independent image that we are trying to establish for this Bank, maybe by not expressly putting that into the Section might be a better approach.

SUSPENSION OF THE SESSION

Senator Maceda. 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 4:03 p.m.

RESUMPTION OF THE SESSION

At 4:07 p.m., the session was resumed.

The President. The session is resumed.

Senator Maceda is recognized.

Senator Maceda. Mr. President, upon consultation with the Sponsor and Senator Romulo, who is an accountant, it has been

suggested that the amendment should be to delete the entire paragraph because it is an ordinary accounting practice anyway, that if there is a net loss, it is debited to surplus, if there is any surplus.

The President. So we delete Section 43, lines 7 to 11.

Senator Maceda. Yes, Mr. President.

Senator Roco. It is accepted, Mr. President.

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

Senator Lina. Mr. President.

The President. Senator Lina is recognized.

Senator Lina. This is concerning the amendment that I was about to introduce a while ago, and I conferred with the staff of the Senator in locating the provision that would cover the....

The President. This is on page 28.

Senator Lina. Yes, Mr. President. There is no provision in this proposed bill that will cover that failure to make the necessary report even among fiscals and labor arbiters, Mr. President.

The President. Can the Gentleman please state the amendment?

LINA AMENDMENT

Senator Lina. The amendment is: "FAILURE TO COMPLY WITH THE REPORTORIAL REQUIREMENT, PURSUANT TO THIS ARTICLE, WITHOUT JUSTIFIABLE REASON AS MAY BE DETERMINED BY THE MONETARY BOARD, SHALL CAUSE THE WITHHOLDING OF THE SALARY OF THE CONCERNED PERSONNEL UNTIL THE REPORTS ARE MADE." Subject to style, Mr. President.

Senator Roco. It is accepted, Mr. President.

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

Back to page 29.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Section 44, the Revaluation of Profits and Losses, does not carry any period, and it appears that it will be

a continuing revaluation and it will be under the suspense account, but without any definite period.

Would the distinguished Sponsor agree to specify a definite period?

Senator Roco. The technical staff states, Mr. President, that it can be done, but it will be very difficult if we have a period because that means we will liquidate, one way or the other, if there are losses or gains.

In the revaluation of the currency in this account, it is better to keep it there forever. In fact, even the RIR now, we are keeping it there forever until the elements of the law. If there is a profit because of the revaluation, then it will clean up.

Senator Guingona. Yes, but may I know whether the original Central Bank Act had a period which was amended.

Senator Roco. None, Mr. President. In fact, that is why we retained the Revaluation of International Reserve Accounts. It shall be neither credited nor debited for any purposes other than those specifically authorized in this section. We retained the same treatment under the old Central Bank Act.

Senator Guingona. Yes, but if it continues to — learning from the lessons of the P160 billion — amass a big amount, should there be no mechanism whereby the authorities are mandated to ...

Senator Roco. Then we will actualize a loss. That is why that is the only suspense account, Mr. President, that we retained. The MAA and the ESAA, we deleted. The RIR does not matter. Let it fluctuate up and down. But, presumably, with better management from the Monetary Board, that will be better controlled. We may not really want to actualize the loss from the RIR account.

Senator Guingona. So, this is forever.

Senator Roco. Yes, Mr. President. And if the peso becomes very strong, then we shall have a surplus arising from the revaluation account.

Senator Guingona. After the year 2000.

Senator Roco. Yes.

Senator Guingona. Thank you.

The President. Page 30.

Senator Tañada. Mr. President.

The President. Senator Tañada is recognized.

TAÑADA-REVILLA AMENDMENT

Senator Tañada. On page 30, lines 24 and 25, after the word "work" place a period "." and delete the following words after that "but in all cases subject to the approval of the Monetary Board." So that the decision of the Chairman of the Commission on Audit would no longer be subject to the approval of the Monetary Board.

Senator Roco. The Gentleman from Cavite has a similar amendment, Mr. President. We accept.

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

Page 31.

Senator Gonzales. Mr. President.

The President. Senator Gonzales is recognized.

Senator Gonzales. Preparatory to the amendment, may I pose a question to the distinguished Sponsor.

Section 49 may be violated even if there is no forgery or an attempt to forge Philippine currency.

Senator Roco. Let me read it again, Mr. President. I believe so, Mr. President.

Senator Gonzales. In fact, it says here "which in the opinion of the Monetary Board might circulate as currency." And the other is "nor reproduce or imitate." These will be separate acts.

Senator Roco. Yes, these are from the old Central Bank Act, Mr. President.

Senator Gonzales. Yes. For example, the issuance of the Mindanao dollar by the Mindanao Independence Movement or any form of currency by any rebel or insurgent group would come within the purview of the prohibition under this provision?

Senator Roco. That is correct, Mr. President.

Senator Gonzales. I believe this is a very, very serious offense. And it says here at the last paragraph that "The Bangko Sentral shall have the authority to investigate, make arrests, conduct searches and seizures in accordance with law, for the purpose of maintaining the integrity of the currency."

I agree with that. But is there already a provision that declares this an offense and imposes the punishment?

Senator Roco. I am not sure, Mr. President.

Senator Gonzales. To be sure, therefore, may I then propose on page 32, Mr. President, without the objection of the distinguished Sponsor, that between ...

The President. Yes, please go ahead.

GONZALES AMENDMENT

Senator Gonzales. Between lines 2 and 3 of page 32, insert a new paragraph to read as follows: "VIOLATION OF THIS PROVISION OR OF ANY REGULATION ISSUED BY THE BANGKO SENTRAL PURSUANT THERETO SHALL CONSTITUTE AN OFFENSE PUNISHABLE BY IMPRISONMENT OF NOT LESS THAN FIVE YEARS AND NOT MORE THAN TEN YEARS. IN CASE THE REVISED PENAL CODE PROVIDES FOR A GREATER PENALTY THEN THAT PENALTY SHALL BE IMPOSED." Because we do not know.... I recall that there is forgery of currencies. But circulation of an instrument as currency, I am not very sure whether or not....

Senator Roco. The Gentleman's suggestion about the circulars will be in reference only to this particular violation.

Senator Gonzales. Yes, Mr. President.

Senator Roco. Not to any and all circulars as regards anything.

Senator Gonzales. No, because, actually, here we find out, Mr. President, that the Monetary Board may issue such regulations as it may deem advisable in order to prevent the circulation of foreign currency.

Senator Roco. We accept, Mr. President, subject to style.

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

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Mr. President, could we go back to Section 47, on page 31?

The President. Section 47, page 31.

MACEDA-TAÑADA-OPLÉ AMENDMENT

Senator Maceda. Mr. President, we are submitting this, cosponsored by Senator Tañada and Senator Ople, and I will read:

"The Piso." — The unit of monetary value in the Philippines is the "piso," which is represented by the sign "P."

"The piso is divided into one hundred equal parts called "SENTIMO," which are represented by the sign "S."

The President. What is the pleasure of the Sponsor?

Senator Roco. It is accepted, Mr. President.

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

Page 32. [Silence] Page 33. [Silence] Page 34. [Silence] Page 35. [Silence] Page 36. [Silence] Page 37. [Silence] Page 38. [Silence] Page 39. [Silence] Page 40. [Silence] Page 41. [Silence] Page 42. [Silence] Page 43. [Silence] Page 44. [Silence] Page 45. [Silence] Page 46. [Silence] Page 47. [Silence] Page 48. [Silence] Page 49. [Silence] Page 50. [Silence] Page 51.

Senator Tolentino. Page 51, Mr. President.

The President. Senator Tolentino is recognized.

Senator Tañada. Page 50, Mr. President.

The President. Anterior amendment, Senator Tañada. Page 50.

TAÑADA AMENDMENT

Senator Tañada. On page 50, line 5, after the word "Sentral," insert the following: "PROVIDED, THAT ISSUANCE OF SUCH CERTIFICATES OF INDEBTEDNESS SHALL BE MADE ONLY IN CASES OF EXTRAORDINARY MOVEMENTS IN PRICE LEVELS period (.)."

Mr. President, I pointed out in my interpellation to the distinguished Sponsor that the CMA's authority to issue IOUs must be somehow restricted. While we would not deny the CMA the flexibility afforded by the open market instruments, issuance of CB notes must be considered only in cases or in response to worldwide fluctuation in price levels.

Senator Roco. How is the proposed amendment again, please?

Senator Tañada. We insert the following words after the word "Sentral" on line 5: "PROVIDED, THAT, ISSUANCE OF SUCH CERTIFICATES OF INDEBTEDNESS SHALL BE MADE ONLY IN CASES OF EXTRAORDINARY MOVEMENTS IN PRICE LEVELS."

Senator Roco. Subject to style, Mr. President, we accept.

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

Anterior amendment on page 50.

Senator Maceda. Anterior amendment, Mr. President, I did not realize that the Aurora express have gone so far.

Back to page 38, because this is a major amendment, Mr. President. Lines 23 and 24, discussed in the debates for purposes of thoroughly making the Monetary Board or the Bangko Sentral independent, delete the words "and with the approval of the President of the Philippines."

The President. What is the pleasure of the Sponsor?

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension, Mr. President?

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

It was 4:21 p.m.

RESUMPTION OF THE SESSION

At 4:23 p.m., the session was resumed.

The President. The session is resumed.

Senator Maceda. Mr. President, may I ask the Sponsor whether this provision of approval by the political leadership is present in other countries? My impression is that most of the countries, like the Federal Reserve Board, the English Board, and the Bundesbank, according to Senator Romulo, are truly independent of the political leadership of the country.

Senator Roco. I think Senator Romulo has pointed out that in France, there is. And then in the Bundesbank they do have some control mechanism with the right staff.

Again, Mr. President, this is a judgment call. It does not matter to me. In fact, the Central Bank people will be very happy if we remove it. But because it is an emergency and if this succeeds — five or six years from now the Central Bank or the Bangko Sentral will be very strong — it is better that we have some break or political restriction only in instances of emergency.

So this is my submission. I can live with either.

Senator Maceda. What is the pleasure of the Sponsor then?

Senator Roco. I prefer, Mr. President, not to accept, if the Gentleman does not mind. Someday, he may become President and he will rue the day when he is not there.

Senator Maceda. No, Mr. President. If I am President — and I thank the Gentleman for the compliment — I do not think that I will appoint anybody to the Monetary Board that I cannot control. [Laughter]

Anyway, I will respect the opinion of the Gentleman.

Senator Roco. Thank you, Mr. President.

The President. Back to page 51.

Senator Tolentino is recognized.

Senator Tolentino. Mr. President, on page 51, line 6, between "banks" and "operating," I suggest that we insert "AND QUASI-BANKS."

Senator Roco. That is correct, Mr. President. Accepted.

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

Senator Tolentino. And then from lines 8 to 10, beginning with the words "Provided, that" up to line 10 "reserves against," I propose to delete the whole three lines and insert instead the word "INCLUDING." So that it will read: "shall be required to maintain reserves against their deposit liabilities INCLUDING funds held in trust." Because I have already inserted anyway "QUASI-BANKS" in the first amendment.

Mr. President, may I explain. The effect is that instead of making it discretionary with the Monetary Board to require inclusion of funds held in trust as a basis for reserves, it will just be already part of the liabilities and no discretion is left to the Monetary Board.

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension, Mr. President?

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

It was 4:26 p.m.

RESUMPTION OF THE SESSION

At 4:27 p.m., the session was resumed.

The President. The session is resumed.

Senator Tolentino is recognized.

Senator Tolentino. Mr. President, in view of the explanations made by the distinguished Sponsor, I would like to ask for a reconsideration of my first amendment on line 6.

The President. Is there any objection? [Silence] Hearing none, the amendment is reconsidered.

Senator Tolentino. And I withdraw that proposed amendment.

The President. Is there any objection? [Silence] Hearing none, the amendment is withdrawn.

Senator Tolentino. On lines 8 to 10, I withdraw also my proposed amendment, and in lieu thereof, I propose that on line 9, between the words "require" and "banks," we insert the word "ALL" — "require ALL banks" et cetera.

Senator Roco. It is accepted, Mr. President.

Senator Tolentino. Thank you.

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

Page 52.

Senator Macapagal. Mr. President.

The President. Senator Macapagal is recognized.

MACAPAGAL AMENDMENT

Senator Macapagal. Page 51, Mr. President. On lines 15 to 17, I propose to delete the phrase "except when the Monetary Board as circumstances warrant, permits such reserves to be in the form of other assets."

The President. What is the pleasure of the Sponsor?

Senator Roco. It is accepted, Mr. President.

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

Page 52.

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. The paging escaped me because I was formulating an amendment on page 49. If the Body will permit me to....

The President. Let us go back to page 49.

Senator Osmeña. Mr. President, preliminary to my amendment, one of the many characteristics of our debt papers that we found out in the course of the many hearings in the Senate was the fact that the treasury bills issued by the National Government, as well as the debt papers of the Central Bank, were issued in extremely large denominations, through a cabal known as the security dealers who were really the banking institutions in this country. Unlike in the United States when an ordinary citizen wants to buy a U. S. savings bond, he goes to the Post Office and he can buy a bond for as small as a hundred dollars. In this country, one cannot go directly to the Central Bank or go to any Municipal Treasurer or to any branch of the Philippine National Bank and buy a treasury bill for a thousand pesos or maybe P5,000.00. I have been constantly pressing. In fact this is one of the issues that I brought to Governor Cuisia.

OSMEÑA AMENDMENT

So I would like to offer an amendment, Mr. President, on the paragraph that starts with line 27:

"The evidences of indebtedness acquired under the provisions of this Section must be freely negotiable and regularly serviced AND MUST BE AVAILABLE TO THE GENERAL PUBLIC THROUGH BANKING INSTITUTIONS AND LOCAL GOVERNMENT TREASURIES IN DENOMINATIONS OF NO LESS THAN A THOUSAND PESOS."

Senator Roco. Will the Gentleman just modify it a bit, "A PORTION OF WHICH MUST BE MADE AVAILABLE," because there are advantages, I understand in these large denominations, these are available to the general public, but they are not affordable to the general public. So if we transform them into very small denominations, even the large investors will have to buy hundreds of pieces of paper.

Senator Osmeña. What I envision, Mr. President, is they be available in thousands, one thousand, five thousand, ten thousand, hundred thousand, which is the minimum now.

Senator Roco. In that context, Mr. President, I accept the amendment, subject to style.

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

Senator Osmeña. Thank you, Mr. President.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. I will stay on page 49 while we are there. Section 84, "Provisional Advances to the National Government." May I know whether this is meant to be without interest?

Senator Roco. There is no such suggestion in the Section, Mr. President.

MACEDA AMENDMENTS

Senator Maceda. Since this is "may," after the word "advances" on line 3, may I, therefore, place the words "WITHOUT INTEREST."

Senator Roco. Mr. President, under Section 80, it states: "The Monetary Board shall fix the interest and the discount rate"... Maybe, the Gentleman does not want again to have the Monetary Board hamstrung in its flexibility. Sometimes they may want to have no interest; sometimes they may want, depending on the economic conditions.

Senator Maceda. Why do we not put "WITH OR WITHOUT INTEREST"?

Senator Roco. Fine, Mr. President, "WITH OR WITHOUT INTEREST."

Senator Maceda. Just to clarify that it may be done without interest.

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

Senator Maceda. On line 5, we change the period of "three (3) months" to "SIX (6) MONTHS."

Senator Roco. As I understand it, Mr. President, it is better that they are repaid within three months. The sooner it is repaid, the better.

Senator Maceda. Yes, of course. If it could be repaid in three months, fine, but there might be situations where the National Government that we want to help anyway requires a longer period. As I said, this will probably be used up not immediately but five, six years down the line. In the process for the last 20

years and for the next five years, it is the National Government that has been helping the Bangko Sentral. So when we assume that it will be solvent in order to be able to help the National Government, we make it very difficult and strict for the National Government.

Senator Roco. Yes. Mr. President, again, we have no quarrel with the concept, but because the concept is provisional, the sooner it is done the better. What I understand as the practice is, the government pays immediately and then it borrows again.

So we will just be extending the period and lengthening really the period of provisional advances. That may not be the best control mechanism.

Senator Maceda. Would the Gentleman like to word it, on line 5, after the word "months" "before the end of three (3) months," "EXTENDIBLE FOR ANOTHER THREE (3) MONTHS."

Senator Roco. Could we leave this judgment, Mr. President, to the Monetary Board, again, because that basic theory of the bill is to give the judgment calls to the Monetary Board. If the Gentleman does not feel very strongly, could we leave this to the Monetary Board to decide?

Senator Maceda. Then, it would be consistent with that suggestion to delete this. And if the Monetary Board has a condition of the advance, it says three months, it can do so.

So that what is provided will only be limited, "provided that the provisional advances shall not, in their aggregate, exceed twenty (20%) percent," et cetera.

Senator Roco. So that it will not have sufficient control mechanisms, Mr. President.

Senator Maceda. No, in the Monetary Board decision...

SUSPENSION OF THE SESSION

Senator Roco. 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 4:36 p.m.

RESUMPTION OF THE SESSION

At 4:36 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. We have agreed, Mr. President, "before the end of three (3) months OR EXTENDIBLE BY ANOTHER THREE (3) MONTHS AS THE MONETARY BOARD MAY ALLOW," to insert that provision.

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

Senator Maceda. Thank you.

The President. Back to page 52, 53, 54, 54-A...

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. On page 54, after line 19, "the Monetary Board may also modify or set aside reserve deficiency penalties for rehabilitation program of a bank."

Senator Roco. I am sorry, Mr. President.

Senator Guingona. This is page 54, line...

Senator Roco. Is it on page 54, not 54A?

Senator Guingona. Yes, under Section 96, on Reserve Deficiencies. The Monetary Board is allowed to exempt or modify the reserve deficiency penalties, on lines 15 to 19. We just want to add the same authority for banks under rehabilitation.

Senator Roco. It is accepted, Mr. President.

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

Page 54A, 55...

Senator Tolentino. Not on page 55. On page 56, Mr. President.

The President. Page 56. Senator Tolentino is recognized.

Senator Tolentino. On page 56, before I make any proposal of amendment, may I just ask a couple of questions of the distinguished Sponsor? I am going to refer to Section 100 on Interest Rates. At present, how are the interests charge paid by banks on deposits — whether demand deposits or time deposits? How are they regulated at present?

Senator Roco. The question is how much are the....

Senator Tolentino. No, I am not asking how much. Are they free to fix their own interests or are they under regulation?

Senator Roco. I am not sure, Mr. President. Let me consult, because this is a....

Senator Tolentino. Because this section gives the Monetary Board the power to prescribe the rates of interests which banks may pay on deposits. This seems, to me, a restriction on the freedom of enterprise — the freedom of banks to determine the interest they will pay on deposits that they receive.

Why do we not allow them to compete? Why should the Monetary Board fix their interests?

Senator Roco. Mr. President, this is part of the old law. Although this has always been in the Central Bank Act, the practice, I am informed, is that the different banks fix their own interest rates.

Senator Tolentino. But now they will be prohibited from that, because now it is the Monetary Board that will prescribe the rates of interest. So, I will propose that Section 100 be deleted.

Senator Roco. No. That was what I was trying to say, Mr. President; maybe, I was not clear.

Although this is an existing provision of the Central Bank Act, the practice has been, in fact, to allow. In other words, the power of the Monetary Board to prescribe the rates of interest includes the power not to prescribe, and the practice has been not to prescribe.

The President. So, why not delete the provision since it is not necessary?

Senator Tolentino. If we delete this provision, then we allow the banks to fix their own rates of interest, and this should be favorable to the depositing public. And the banks can compete not only with respect to rates of interest, but to other concessions or benefits that they may give to their depositors in the different kinds of deposit. I have seen brochures from banks abroad doing this. They compete with respect to rates of interest and the benefits given to depositors. Why do we not allow this to our banks?

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension?

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

It was 4:41 p.m.

RESUMPTION OF THE SESSION

At 4:42 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. We have seen very clear, Mr. President, to deleting it altogether.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is approved. Section 100 is deleted.

Of course, we instruct the draftsman to renumber the sections.

Senator Roco. Yes, Mr. President.

The President. Page 57?

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. I would just like to clarify the meaning of Section 105, because it was my impression that the PNB and now the Land Bank are the official bankers of the government. What do we mean by making the Bangko Sentral as the banker of the government, its political subdivisions and instrumentalities?

Senator Roco. Because under the Local Government Code, Mr. President, I think the local government units can deposit with PNB and other banks. But right now, they are being given the opportunity also if they may want to deposit with the Central Bank.

Senator Maceda. Would that, in effect, not make the Central Bank compete with other government banking institutions? And should it go into that type of what we call "retailed banking"?

Senator Roco. As I understand it, Mr. President, because there are international funds, for instance, extended to local government units, there may be a requirement that some of these funds should go to the Central Bank or to the Bangko Sentral and therefore, we have to give it a statutory basis. Otherwise, the local government units may be deprived of international funding.

SUSPENSION OF THE SESSION

Senator Maceda. May we have a one-minute suspension?

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

It was 4:44 p.m.

RESUMPTION OF THE SESSION

At 4:45 p.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, we have accepted a counter-amendment offered by the Sponsor. On line 17, the last word "the" or "that," change that to "A," "SHALL ACT AS A BANKER OF THE GOVERNMENT."

The President. Is there any objection to the counteramendment? [*Silence*] Hearing none, the same is accepted.

Page 58, page 58-A, page 59.

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. On Section 112, page 59, line 8, "Issue of Government Obligations. — The issue of securities representing obligations of the government, its political subdivisions or instrumentalities, shall be made through the Bangko Sentral, which shall act as the agent."

Is this an exclusive situation, because of late, Mr. President, there have been instances like the provincial government of Cebu which issued bonds through the DBP and through Bank of P.I. I want to know from the Author whether this is an exclusive situation or whether there is room for other banks. Not that I am against it, Mr. President. As a matter of fact, I would like to see some control.

Senator Roco. Mr. President, there may be no need to consider this because this will be phased out in five years. Sections 112 to, I think, 117 will all be phased out under the Transitory Provision. So, we will just maintain this pursuant to the old law so that it can be abolished five years from now.

Senator Osmeña. Mr. President, even if it is abolished five years from now, it still will be a law for the next five years. And we have local government units which are now talking about issuing bonds and floating bonds and the like. I had a meeting

with the Securities and Exchange chairman, and she manifested concern because government debt papers are not subject to the regulation of the SEC. In fact, she told me that it might be prudent. That is why when I saw this, I thought that, maybe, this would answer the problem of Chairman Lopez.

Senator Roco. In fact, Mr. President, that is precisely when it is phased out, it will go to the SEC. That is the reason, Mr. President, we are not even bothering to amend the present provision because it will be just there to be ran down.

Senator Osmeña. I am not against this provision. I just wanted to know because if this provision carries an exclusivity feature, then local governments, since this is an old provision, which issue bonds and certificates of indebtedness, may have done so against the law.

Senator Roco. I do not believe so, Mr. President.

Senator Osmeña. Now, on Section 113, Mr. President, we are back to the T-Bills, "Methods of Placing Government Securities. — The Bangko Sentral may place the securities to which the preceding Section refers through direct sale to financial institutions and the public, through outright sale to syndicates, brokers or dealers for purposes of resale to the public for their own account."

This is one where I have problems again because it prescribes an exclusive vehicle, which means syndicates, brokers or dealers, and not directly to the public. That is why, Mr. President, on line 22, after the word "public," the comma (,) should be changed to a period (.) and delete that whole Section so that it can be sold to the public.

Senator Roco. It is accepted, Mr. President.

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

Senator Osmeña. Thank you, Mr. President.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, just to clarify. On Section 112, the issuance of bonds by local governments is now allowed under the Local Government Code, and perhaps, this should just be a matter of consultation. But since the approval of those bonds are under the Department of Finance ...

The President. I think it has been made clear that the authority given to the CB is not exclusive. It does not preclude

issuance by local government units of bonds and securities as authorized by the Local Government Code.

Senator Guingona. So they can go ahead and issue without going through the Central Bank?

Senator Roco. Yes, Mr. President.

The President. Yes, without having to channel it through the Central Bank.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Mr. President, I am just reminded in connection with this proviso in Section 112, that the Central Bank shall not guarantee the placement of such securities, et cetera.

Is there any provision in this charter now that prohibits the Central Bank from guaranteeing any private loans, which happened in the behest loans?

Senator Roco. I think the Constitution requires that guarantees be done with the approval of Congress if they will bind the government. I think there is a provision of the Constitution, Mr. President.

Senator Maceda. Maybe the Sponsor could look into it. And in the Conference Committee if that is not clear, considering our behest loans experience, there should be a specific provision that the Bangko Sentral is not allowed to guarantee any private loans.

Senator Macapagal. Mr. President.

The President. Senator Macapagal is recognized.

MACAPAGAL AMENDMENTS

Senator Macapagal. We are still on page 59, on the question of Senator Guingona about the Bangko Sentral being the agent for the issuance of government obligations.

When we were talking about the Bangko Sentral not being the exclusive agent, we were talking about its role as a depository of funds.

In this particular case, in Section 112, it is not a role as depository but its role as an agent for the issuance of securities.

If the intent of our Chamber is also not to make it exclusive, then I propose that on line 10, the word "shall" should be changed to "MAY."

Senator Roco. It is accepted, Mr. President.

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

Senator Macapagal. Similarly, on line 11, the word "shall" should also be changed to "MAY."

Senator Roco. It is accepted, Mr. President.

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

The President. Page 60...61.

Senator Maceda. Mr. President.

The President. Page 61, Senator Maceda is recognized.

MACEDA AMENDMENTS

Senator Maceda. At the bottom line 32, I do not think we should encumber the Governor of the Central Bank with the membership in the NEDA Board. So, I would just like to amend that to say: "A DEPUTY GOVERNOR DESIGNATED BY THE GOVERNOR OF THE BANGKO SENTRAL SHALL BE AN EX OFFICIO MEMBER OF THE NEDA BOARD."

Senator Roco. It is accepted, Mr. President.

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

Page 62.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Mr. President, Senator Romulo reminds me that even the Queen of England, who is the sovereign of all the sovereigns, is now paying taxes. I really do not believe that the Bangko Sentral, with all of these special assistances and subsidies we are giving, should now be exempt from all taxes.

So I would like to delete the word "NATIONAL." Meaning to say, they shall be exempt from provincial, municipal and city taxes, fees, charges and assessments, et cetera. But I think even PNB pays national taxes.

The President. What is the pleasure of the Sponsor?

Senator Roco. At this point that we are trying to make sure that the Bangko Sentral will have a viable life — and, in fact, there

are support given to the Bangko Sentral — it may not be the appropriate time to remove tax exemptions, Mr. President.

Senator Maceda. In which case, I will mend my amendment to read, after the word "exempt" as follows: "...SHALL BE EXEMPT FOR A PERIOD OF FIVE YEARS FROM THE APPROVAL OF THIS ACT."

Senator Roco. It is accepted, Mr. President.

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

Senator Tañada. Mr. President.

The President. Senator Tañada is recognized.

TAÑADA AMENDMENT

Senator Tañada. Line 32, page 62, delete the word "furnishing," and on page 63, delete the entire line 1. And in lieu thereof, Mr. President, insert the following: "BANK NOTE PRODUCTION, MINTING OF COINS, METAL REFINING AND OTHER PRINTING OPERATIONS."

Senator Roco. It is accepted, Mr. President.

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

Page 63? 64? Senator Tañada is recognized.

Senator Tañada. Page 63, line 29, after the word "however" on line 29, delete the following words: "That this restriction shall not apply in cases where pursuant to the terms of agreements with international and regional inter-governmental financial organizations, the Bangko Sentral is designated as the conduit for development loan funds; Provided, further". Those are the words I am proposing to delete after the word "however" on line 29, page 63.

The President. So that what will remain is the second proviso, "That outstanding loans," et cetera?

Senator Tañada. Yes, Mr. President, so that the prohibition will only apply to outstanding loans covered by subsisting loan agreements.

The President. What is the pleasure of the Sponsor?

Senator Tañada. I believe CMA should be prohibited from engaging in development banking, Mr. President. And instead of the CMA, other governmental financial institutions like the PNB,

the Land Bank, the GSIS, the SSS, the DBP should be the ones directly undertaking the function of development banking.

Senator Roco. My notes indicate, Mr. President, that we accepted this proposed amendment. But just to be clarified. We are deleting the first proviso?

Senator Tañada. Yes.

Senator Roco. And will the final proviso remain?

The President. Yes.

Senator Roco. The style?

Senator Tañada. Yes.

Senator Roco. It is accepted, Mr. President.

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

Senator Tolentino is recognized.

Senator Tolentino. On page 65, Mr. President.

Mr. President, my proposal will be a question of policy and that is the deletion of Section 127 on the Transfer of Assets and Liabilities of the Central Bank. I have explained my position on this question in the turno en contra remarks I made. I think we are all aware of the implications of this provision and so I will not dwell on it any further except to propose an amendment to delete Section 127 so that the new organization, the new corporate body, the Bangko Sentral, shall start fresh and clean without shouldering any responsibility or liability that it has not itself created. Therefore, that is the proposal I submit, Mr. President.

Senator Roco. We regret, Mr. President, we cannot accept. In fact, the reasons articulated by the Gentleman does not apply to Section 127 because there is no assumption of the burden of P308 billion in this particular recommendation. And it is the thesis precisely of the bill that there is delegation to the Monetary Board which is required by the Constitution. Then we leave to the Monetary Board the responsibility and the duty to clean up, in a manner of speaking, the liabilities of the old Central Bank. We regret, we cannot accept, Mr. President.

Senator Tolentino. Mr. President, we are passing this bill, at least, officially on the basis of a provision of the Constitution itself that we shall create an independent Central Monetary Authority. And there is nothing, I suppose, in those provisions of the Constitution which would require us to make this new independent Central Monetary Authority shoulder the

responsibilities and liabilities of the present Central Bank. But since the distinguished Sponsor has preferred not to accept the amendment I am proposing, I suppose there is no alternative except to vote upon it.

Senator Roco. Mr. President.

The President. Senator Roco is recognized.

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension.

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

It was 5:01 p.m.

RESUMPTION OF THE SESSION

At 5:02 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. Mr. President, we would appeal for support for the study of the Committee in terms of delegating the judgment on how to settle the liabilities to the Monetary Board with the assistance of Congress. The whole focus, after examining the various ways of solving the problem, we have reached Section 127, and it was felt that it was a very delicate balancing so that the new Bangko Sentral will then try to settle or solve the problem of the old. With the new infusion of capital, we are hopeful this can be done.

So we ask for the support of our Colleagues, Mr. President. If this is deleted, then there is really nothing that has been done, or we will have to address the question again at some point in time.

Senator Tolentino. Mr. President.

The President. Senator Tolentino is recognized.

Senator Tolentino. May I just say a few words? The proposed amendment that I have introduced, deleting Section 127, catches every kind of tie or connection between the present Central Bank of the Philippines and the proposed Bangko Sentral.

In other words, if we pass this bill without Section 127, we just leave the Central Bank as is, and we can treat what we shall do with that Central Bank afterwards. In the meantime, we shall have complied with what is provided by the Constitution of simply

creating a Central Monetary Authority, and terminating the transitional provision that is in the Constitution itself.

This is, I think, a very important question, Mr. President, because I can foresee — at least this is the only time that I see a new institution burdened already by liabilities and obligations — considering that of the authorized capital of the Bangko Sentral of P50 billion, only P10 billion will be paid. Of that P10 billion if we consider that of the huge P308-billion losses and liabilities of the Central Bank, if they just absorb in the beginning of some P20 billion, it wipes out already the paid-up capital of the Bangko Sentral. That is a very small part of the P308 billion.

So, my idea, Mr. President, is to make this institution free from any dragging liabilities of the moribund Central Bank. Let us do with the Central Bank what should be done with it, either it goes into bankruptcy or let it liquidate itself by its own operation.

For this reason, Mr. President, I ask our Colleagues to consider this very important and serious problem of policy as to what we shall do.

Thank you, Mr. President.

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized; then Senator Rasul.

Senator Osmeña. Mr. President, may I request the Sponsor to yield to questions so that I will know how to vote on the amendment of Senator Tolentino.

This has to do with page 66. I presume the amendment of Senator Tolentino is to delete all of Section 127. Is that correct, Mr. President?

The President. That is correct, the whole of Section 127.

Senator Osmeña. So, that would include page 66, line 5. It says: "The Bangko Sentral shall remit fifty percent (50%) of its net profits to the old Central Bank until such time when the latter's net liabilities are within the allowable range for central banking operations."

But the old Central Bank will no longer be undertaking central banking operations. It will simply be a warehouse of the losses and the liabilities. Why are we providing some latitude by adding the phrase "within allowable central banking operations" when it is no longer going to be undertaking central banking operations?

Senator Roco. Because, Mr. President, there are liabilities that must be assumed by the Bangko Sentral like the liabilities for notes and coins. We cannot avoid that.

Senator Osmeña. Excuse me, Mr. President. The Gentleman did not understand my question in that case.

I am not talking of the liabilities that are going to be absorbed or taken over by the Bangko Sentral. I am talking about the language on lines 8 and 9 of page 66 which sets as a standard the allowable range of central banking operations for a determination as to when or how much more or what duration will be required for the Bangko Sentral to remit 50 percent of its profits to the old Central Bank.

Senator Roco. Now I understand the question, Mr. President.

We will notice, Mr. President, that as the new Bangko Sentral repays or pays with 50 percent of its net profits for the old Central Bank losses or liabilities, the original wordings used are the words "fully liquidated" until such time when the latter's net liabilities are fully liquidated. And it implied, therefore, although it was not the intention of the Committee, that the Bangko Sentral must keep paying until there is full liquidation.

So we altered that, Mr. President, because the allowable range for central banking operations may now allow the Monetary Board of the Bangko Sentral to just write off; they do not have to fully liquidate. They will just write off a portion of the liabilities.

We did not want to use any more the words "fully liquidated."

Senator Osmeña. There are two concerns there, Mr. President. One is by making it the responsibility of the Bangko Sentral's Monetary Board to determine when they will stop remitting. That is what it says, because they will be the ones who will determine when they will stop remitting.

Senator Roco. Yes, they do not have to pay all of it.

Senator Osmeña. We are running the risk of not remitting enough because the natural incentive for them, since they are the ones that are remitting, is not to remit anymore.

Senator Roco. Within allowable limit, Mr. President, then they will either write off or they will bury it like their evaluation account which will be kept there theoretically forever.

Senator Osmeña. So that brings us to the second question. What are the allowable limits? Who will determine the allowable limits?

Senator Roco. This is very difficult, Mr. President. There are all sorts of econometric models and factors to consider. I really cannot tell the Gentleman what are the allowable limits.

Senator Osmeña. That is precisely the problem, Mr. President. The third problem is, what happens to the unpaid? Since this section does not envision a full liquidation, what happens to the unliquidated? Suppose at the end of the year the Monetary Board of the new Bangko Sentral says, "Well, reducing those debts by 10 percent is already within allowable limits. We will not pay you anymore." So what happens to the 90 percent?

Senator Roco. What happens, Mr. President, is that the Monetary Board will make judgments as to the balance or what they can afford to pay for that particular moment. Should they so desire, they may ask for subsidy or support from the government and that means coming to Congress. If that is the concern of the Gentleman, he would want to consider supporting the Section because if this is deleted, we really do not know what will happen to all these liabilities and losses.

Senator Osmeña. I do not know what is in the mind of Senator Tolentino in seeking to have it deleted and what substitute proposals he would have. But if we do not support the proposal of Senator Tolentino, then I think we must look for an amendment which will not, shall we say, give a blank check to the new Monetary Board of the Bangko Sentral.

Senator Roco. That is correct, Mr. President.

Senator Osmeña. This is a blank check paragraph. Lines 5 to 15 is a blank check paragraph, Mr. President. We are, in effect, telling them: "You pay for as long as you feel you want to pay. If you do not want to pay, find an excuse not to pay. *Bahala ka na riyan.*"

Senator Roco. No, Mr. President. Some of them are genuine liabilities. The other losses arise from the revaluation account and there is a manner of treating that. In fact, it is not a blank check. If we read it — precisely, we modified it to clarify the intention — it says that the Bangko Sentral in its duty is being given the responsibility of utilizing its net profits to clean up the old.

In contradistinction from the House version, Mr. President, the House version gives a promissory note for P308 billion from the National Government to the Bangko Sentral or the CMA. Under the House version, it means that for the next 25 years, the National Government shall be paying the Central Bank or the CMA or the Bangko Sentral roughly P25 billion a year in interest alone. At the end of 25 years, the National Government still has to pay P308 billion.

That is the kind of obligation that I think we in this Chamber should not accept, Mr. President. That is why in our recommendation, we put the onus and responsibility on the new Bangko Sentral. We identify how they will try to liquidate the old obligations from 50 percent of their net profit. And then we state that maybe they may request Congress for assistance or appropriations to restructure or help settle the Central Bank's obligations because we fossilized the old Central Bank. Therefore, under this, on a yearly basis, there is both control of public funds, and if the Bangko Sentral feels that they need more support from the National Government, Congress must make a judgment at that point in time.

The President. As I understand it, if I may intervene, Senator Osmeña is really not objecting to the provision but he just wants the criterion within the allowable standards for central banking operations be made more specific.

Senator Roco. We are amenable, Mr. President, to an amendment to that standard.

Senator Osmeña. Mr. President, I will go back to my seat and we will vote on the amendment of Senator Tolentino. Whatever the outcome, then we will present our own amendments.

Senator Roco. It may be important, Mr. President, to first take up the amendment because, if amended, it may influence the vote of the Gentleman. Right now, as I understand the Rules, he may want to first look at the amendments before we have a division of the house in terms of voting.

The President. So is the Body ready to vote on the Tolentino amendment?

Senator Tolentino. Mr. President.

The President. Senator Tolentino is recognized.

Senator Tolentino. With the indulgence of the Chair, may I ask questions of the distinguished Sponsor. Considering the legal situation, the Central Bank is an independent corporate body. The Bangko Sentral, likewise, will be a corporate body created under this bill, if it becomes a law. Now we are allowing transfer of liabilities and assets by legislation.

Is this permissible, Mr. President? Or must it be a voluntary act on the part of the new body, the Bangko Sentral, to assume responsibility? Can we do this, imposing the responsibility and liability by legislation? This is a corporate body. It will have an existence of its own.

Senator Roco. But, as we create it, Mr. President, we can give them particular duties and goals, and that is the act of the

creation and the establishment of the new body. We cannot create a body without obligation, and that is why, by law, we are mandating it.

My answer, Mr. President, to the question is yes.

Senator Tolentino. I doubt that very seriously, Mr. President. We create a body corporate. We invest it with a capitalization. That is right. This capitalization is the money that it will use, but to impose upon it an obligation that it has not incurred by itself is something else. We are imposing the will of Congress upon a corporate body that has a separate juridical existence. I doubt very much if we can do that by law, Mr. President.

Senator Roco. Mr. President, our legal opinion is different. If we delete this, we create a situation in the Conference Committee where the only suggestion is for us to pay with the P308 billion promissory note, and there is no counteroffer from the Senate. Effectively, that deletion will therefore prevent us from arguing against the House version, considering that he was opposing Section 127 precisely, because it will burden the Republic with P308 billion. I do not understand really why he wants to delete it.

Senator Tolentino. No. I do not want to burden the public even with one centavo, Mr. President. I am trying to ask these questions because I am driving at something more important.

All right, if we can impose a burden on the Bangko Sentral, the next question is: Can we relieve the Central Bank of its obligations by legislation?

Senator Roco. I do not see why not, Mr. President.

Senator Tolentino. All right, we will accept that, Mr. President. If we can do that, why do we not just terminate the Central Bank, and let it liquidate itself upon termination of its existence? That will do away with having the people to shoulder any obligation of the Central Bank. All the assets of the Central Bank will now be the ones available for the liquidation of its obligations the moment its life is terminated by legislation.

Senator Roco. Because, Mr. President, we are not allowed to pass a law that will impair contracts and obligations. Under the existing Central Bank of the Philippines, there are contracts and obligations existing, and we cannot just say here that we are deleting and ignoring those contracts and obligations.

Senator Tolentino. No. We are not modifying the obligations. We are not interfering with the obligations. We are not impairing the obligations. We are only terminating the life of the Central Bank. Can we not do that by legislation? It is being done here that after a certain period, the bank will cease to exist, why can we not do it, directly saying that the Charter of the

Central Bank is terminated or that the life of the Central Bank is terminated and it can go into liquidation?

The Bangko Sentral will assume nothing. The Philippine Government will assume nothing. The people will assume nothing. Congress will not have to appropriate anything.

Senator Roco. The choice, Mr. President, is to declare really the old Central Bank bankrupt. If that is a policy choice that is being sought for this Body to recommend, then let the judgment of this Body prevail.

In the view of our Committee, Mr. President, that probably will entail great disadvantages to the country in having to declare the Central Bank bankrupt. In any event, if we terminate the existence, somebody will still have to answer for the contracts and obligations of the existing Central Bank, because the Constitution does not allow us by law to impair those contracts and obligations.

Senator Tolentino. I am sorry, Mr. President, but as I said, we are not trying to impair any obligation. We are not. The obligation is there. What I am suggesting only is an alternative to this proposal in the Bangko Sentral Bill. An alternative.

If we eliminate Section 127, then we are free to do what we want to do with the Central Bank. We may terminate its existence. We may want to give directly to the Central Bank assistance from Congress. That will give us more leeway. But with this system, we are already binding a new corporate, a babe, as it were, with obligations imposed by us not contracted by that new organization.

The President. With the permission of the two Gentlemen, the Chair would recognize the Lady from Sulu.

Senator Rasul. Thank you, Mr. President.

The problem with us, Mr. President, is that we are laboring under tremendous constraints. We are tackling, we are grappling with a subject that is really very important, highly specialized, and I doubt if all of us have the expertise that could deal with this particular section.

Mr. President, I support the view of Senator Tolentino, but for another reason. I would rather give to the new Central Bank the function of studying the liabilities, formulating the implementing measures to resolve the issue. Why do we not give the new Central Monetary Authority six months after the effectivity of the law, and for it to study the liabilities, formulate and implement the measures to resolve the problem?

So we delete Section 127, but at the same time we give the responsibility to the new Central Monetary Authority. I am sure

they have the expertise, they should know how to deal with the issue.

SUSPENSION OF THE SESSION

Senator Roco. Mr. President, may we have 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 5:22 p.m.

RESUMPTION OF THE SESSION

At 5:31 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

Senator Romulo. Mr. President, may we have the question restated so that it is very clear when we vote what we are voting for.

The President. The question being put to the Body is the Tolentino proposal to delete Section 127 of the draft bill. We have heard the arguments for and against this submission.

Senator Romulo. In other words, Mr. President, if we vote "Yes" that means Section 127 is deleted.

The President. That is correct.

Senator Romulo. And if we vote "No" that means Section 127 remains.

The President. That is correct. But the different implication is that, if we vote in favor of the Tolentino deletion, that means, according to the Sponsor, the heart of the bill has been taken out and there is no mechanism to handle the transfer of assets and losses.

On the other hand, the main argument of Senator Tolentino, if I may paraphrase it, is that we do not need this because we cannot transfer liabilities and losses by fiat to a new entity like the Bangko Sentral.

Senator Tolentino. Mr. President, may I be permitted to say a few words to clarify that issue.

The President. Yes, please.

Senator Tolentino. This bill is practically the Charter of the Bangko Sentral. I think that is admitted. A provision like this, transferring assets and liabilities from one entity to the Bangko Sentral is actually a rider. It is not needed for the Charter of the Bangko Sentral. We can eliminate this. The Charter will remain. It will be intact. We can create the Bangko Sentral. All the provisions about its powers are there. Because this is actually foreign. We are inserting a foreign matter. This is not the heart of the bill. It is something, a rider, in the bill. That is why if we do away with this, we still have the Charter of the Bangko Sentral, unimpaired Charter. All the elements of the Charter are there.

So, Mr. President, I feel that we should be given time to really deliberate on what should be done with these assets and liabilities of the Central Bank. The Central Bank will still have more time. By passing this bill, we do not automatically terminate the Central Bank. It will continue in existence here. So we, in Congress, will have more time to deliberate on what is going to be done with those assets and liabilities. If later on, we decide that they can be transferred to the new entity, we must know how much is going to be transferred. Not like this indefinite amount. There is no definite amount. If the House bill says P308 billion, there is no guarantee that that is a correct figure either.

We must be given time to look into this, so that we do not act on this blindly with respect to figures which amount to billions, and which ultimately Juan dela Cruz may have to shoulder. Because even under the terms of this bill, only 50 percent — I thought 75 percent — of the net profits of the Bangko Sentral are being given yearly for the liability of the Central Bank. *Ito pala ay 50 percent lamang.* How much will be left for the Congress to shoulder? A bigger amount. And that will mean money from the pockets of Juan dela Cruz.

We have to be very careful about this because it is not our own money that is going to be spent. It is the money of our people being paid in taxes, and we must be very careful about how this money is going to be spent. If the officers of the Central Bank have been foolish, they have been incompetent, they have been negligent, they have even been fraudulent, my goodness, why are the people's money going to be spent in order to answer for these liabilities?

So, we must be given time to see what can be done with these assets and liabilities. And that time will be given to us by eliminating this assumption of liability.

The President. Yes. So, we will recognize Senators Coseteng, Guingona, Gonzales, and Maceda, in that order.

Senator Coseteng. Mr. President, if the Sponsor is worried that the deletion of Section 127 will mean that we no longer have

a bargaining point compared to the version of the House, then, perhaps, we do not have to delete it and not have a Section 127 at all. Precisely, we can specify in that Section, after we remove all of that — which Senator Tolentino is against — that the new Bangko Sentral will not assume these liabilities. So that we will have a House version that says "We will assume." and a Senate version that says. We will not assume." Then, it does not remain blank and the House version is not automatically adopted because there is a Section 127.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Mr. President, the proposal of the distinguished Gentleman from Manila has merits in an ordinary situation. But we are dealing here with sovereign liabilities. Some of these are not liabilities such as the revaluation of profits and losses. But in the same manner, when the Central Bank issues currency, the peso is its sovereign liability. When it issues promissory notes or Joey bills or Jobo bills, they are, in effect, notes that represent liabilities of the Central Bank. The proposal would, in effect, be tantamount to considering the old Central Bank as a company that would declare bankruptcy. This would renege sovereign liabilities and cannot be done. Therefore, in the face of realities, Mr. President, someone has to determine what are the liabilities and assets that should be assumed by the new Bangko Sentral. Even if we consider this as a charter of the new Bangko Sentral, what are the assets? What are the liabilities?

Therefore, Mr. President, I feel that although the proposal has some merits for ordinary situations, we have here the situation of sovereign debts which we cannot renege on by placing it in receivership and by writing off the same.

Thank you, Mr. President.

Senator Gonzales. Mr. President,

The President. Senator Gonzales is recognized.

Senator Gonzales. There are two things, Mr. President, which bother me and which make it difficult for me to find a solution to this matter.

First, is the Central Monetary Authority a legal successor to the Central Bank of the Philippines? If it is a legal successor to the Central Bank of the Philippines, then it succeeds to all its assets and liabilities. Under the Latin maxim and a basic principle in the Law on Property, *res transit cum suo onere*. One cannot assume only some assets, and yet free himself from obligations. He must assume all assets and all liabilities.

But in this particular provision, it says here that the Monetary Board will choose what assets will be transferred and what liabilities the Central Monetary Authority would assume. That is where the legal question comes in — *Magagawa nga ba naman iyon* by legislative fiat?

I am bothered by the fact that regardless of what we do here, these obligations, let us say P308 billion, would still remain part of the consolidated public sector deficit. *Wala po tayong magagawa roon. Kahit ano pang paraan ang gawin natin*, it still remains as part of the consolidated public sector deficit. Therefore, it has an effect upon the fiscal situation of our country. Whether we say it or not, then impliedly now it becomes an obligation of the National Government.

I find that the answers to these two questions will be helpful to me in resolving the matter at hand.

The President. Senator Maceda is recognized.

Senator Maceda. Mr. President, I feel reassured that my one-hour-and-25-minute effort yesterday was not in vain, because, precisely what we are discussing now is what I referred to when I said that we have not fully discussed all the alternatives and options. What has happened here is, we have been presented with one option, that being espoused by the Sponsor. Here is an alternative that is now being espoused by the Gentleman from Manila and Rizal. And as stated by the distinguished Senator from Mandaluyong, there are questions to be answered in connection with the situation.

I beg to disagree when it is said that Section 127 is the heart of the bill and that if we delete it, *para bang wala na tayong ginawa*. Why did we spend so much time on 126 Articles to begin with? We should have taken up Section 127 from the very beginning, or this should have been a two-page bill, including only Section 127 and some preliminary and completion paragraphs.

I beg to disagree with the statement that if we remove this, there is nothing left. As I understand it from the Proponent of the motion to delete, he is just restating what he has stated before which, I believe, is complementary or supportive of a stand taken by no less than the Majority Leader in his interpellation; and that is, this is a two-step procedure or this is, in effect, a declaration of bankruptcy by the Central Bank and let the Central Bank, in the process of liquidation, winding up or bankruptcy, take care of disposing of this P308 billion in whatever way possible. If, after a period of winding up and liquidation the Central Bank finds out that there are certain sovereign contracts or contracts that are guaranteed by the sovereign to be paid by the National Government, fine. It still does not preclude exactly what the

Sponsor is saying about the Central Bank, admitting that part of the P308 billion still has to be paid, then, as suggested by the Sponsor even in this bill, it can go to Congress or can go to the National Government and say, "Look, we only have so much assets. We have so much obligations which we feel have to be paid. Certain obligations can just be extinguished by a declaration by the Board that these are not good obligations. These are not repayable obligations, then we need about P142 billion. Please take care of it." And then, the National Government at that time can say, "Fine" and then, the Central Bank is liquidated.

As Senator Osmeña is suggesting, even after this proposal or amendment wins, if it does, then alternative measures to fill in the situation or to take care of the situation should be taken up right now. Or, if the Committee would still be willing, following the will of the Chamber — this has been voted down as an option — we find that all the other provisions of the bill are good so far, then this goes back to the Committee to study what is the next option that could be substituted, including the proposal just to declare the old Central Bank in bankruptcy and allow this to start clean without any impositions of the debts and obligations of the old Central Bank.

So, Mr. President, I beg to disagree. I do not think that the Committee really worked so hard to say that out of the 129 sections or so, that this section alone is the heart of the bill. That if we take it, all the others have no value. I beg to disagree. I think all the other sections can survive and be useful, especially the sections where we took great pains to see to it that we have a better, more accountable Monetary Board. All these sections where we have put in requirements and conditions for accountability and not only that, for transparency, are all good sections — all these sections where we have said that there should be certain restrictions on the actuations and actions of officers of the bank.

And so, Mr. President, I go back to my thesis that, precisely, I do not think we are ready really to vote on this bill as a whole. But, anyway, if that is how it has been handled and that is how we are going — as the Gentleman said and while I dispute it that this is the heart of the bill, translated into ordinary language or in the common man's language, "this is the heart of the bill" which will, in effect, transfer P308 billion indirectly to the National Government or to the people, and this is as important as the U.S. Bases vote — that there should be, and I request, a nominal voting on the issue, Mr. President.

The President. We will now close the debate. If the Proponent would want to make the closing statement, then we go to a voting.

The Sponsor is recognized.

Senator Roco. Whether it is the heart of the bill or not, it is secondary, Mr. President. The real issue is how to treat the public sector debt. The public sector debt is proposed to be treated in this manner by our Colleagues in the House — that the P308 billion losses and liabilities should be paid by a promissory note or a bond payable over 25 years. So, this means, Mr. President, that every year we shall be paying interest at something like P25 billion a year, and at the end of the 25-year period, the National Government will still pay the Bangko Sentral, the CMA, or whatever they call it, the amount of P308 billion.

Our Committee, Mr. President, has considered all the alternatives submitted by the various experts. The first one was always to pay the P308 billion immediately, or to pay it in staggered payments.

Our Committee, Mr. President, felt better advised that we should not do that.

Our Committee examined alternatives — there were some that mentioned 250; some that mentioned 150; others would restructure portions; others would refuse to pay the RIR. All these alternatives, Mr. President, are very complex, well-studied, and our Committee reached the conclusion that is now stated in Section 127. The conclusion is based on certain basic principles:

1) The Bangko Sentral or the Monetary leaders must be responsible and must work out solutions to the liabilities and losses of the old Central Bank. But they must be guided in doing so. They cannot just be left alone to determine what they want to pay or what they may not. They cannot be left alone without legislative guidance or legislative standards.

That is what we are hoping could be achieved by Section 127, Mr. President.

The Gentleman from Mandaluyong has asked: Is the Bangko Sentral a successor in interest?

As proposed in Section 127, the answer is no, not automatically. And this is the value, Mr. President, not automatically, because we are allowing for a selection of assets and liabilities because of the situation of the present Bangko Sentral.

Last night, Mr. President, we had occasion to explain why the present Bangko Sentral has *ampaw* assets and *ampaw* liabilities. And therefore, we cannot just walk into all their obligations because it will be criminal, and the Filipino people will not forgive us, I think, if we just assume all their obligations.

But on the other hand, there are certain clear obligations that must be assumed. One of them is money — the liability for our notes and our coins. Somebody must assume that, Mr. President.

If the old Central Bank will stop operations, who will answer for the notes and currencies? That will be the Bangko Sentral. But when they assume these liabilities, why should the new entity, Mr. President, assume them without consideration? That is why certain assets must also follow so that they can have a balanced sheet that will make them operate in a viable manner.

The difference then, Mr. President, if we delete this, the practical effect is that, in the Conference Committee, we have no solution except to say, "We will think about it." And the solution then of the House which they will press since they have thought about it and have reached a conclusion of paying for the P308 billion will be an argument. And all we can say is we refuse, but we do not offer a solution. The solution we offer, Mr. President, for whatever weaknesses it may have, is solidly grounded on principle.

Administrative Law recognizes, Mr. President, that bodies with primary competence and jurisdiction on the matter should solve that problem.

The Constitution says that monetary policies must be made the judgments of the new CMA or the old Central Bank if there is no new CMA.

It is on that basis, Mr. President, that we earnestly recommend to our Colleagues the Transitory Provision, because Section 127 is purely in the Transitory Provision. And we hope it merits the support and judgment of our Colleagues.

Senator Osmeña. Mr. President.

Senator Tañada. Mr. President.

The President. Senator Osmeña is recognized; then Senator Tañada.

I hope that this will already put the debate to a close, because this point has been debated extensively in the main debate and now.

Senator Osmeña. Just a parliamentary inquiry, Mr. President, and I know what the hour is, but I am making it for the record.

That if the proposal of Senator Tolentino — the amendment to delete Section 127 — is upheld, is it not, Mr. President, that we can introduce new language in place of Section 127?

The second question is, if the proposal of Senator Roco is upheld, would it not be that we could also introduce amendments to the language of Senator Roco after the vote?

I feel, Mr. President — and I do not know how the Chair will rule — that the answer to both questions is in the affirmative.

Thank you, Mr. President.

The President. That is correct, affirmative to both questions. Senator Tañada is recognized.

Senator Tañada. Thank you, Mr. President. This really is a very difficult issue to resolve and I can see why some of our Colleagues have already expressed the need for more time to study this problem.

In my interpellation of the distinguished Sponsor, I asked if under this measure, we could say that there would be no transfer of losses or liabilities to the government. If I am not mistaken, the distinguished Sponsor answered in the affirmative — there would be no transfer of losses and/or liabilities to the National Government under the proposed measure. Now, unfortunately, that answer becomes clouded by what is provided in Section 127, the Section that we are discussing now. Because under this Section, the Monetary Board or Bangko Sentral would be given the power to determine what losses or liabilities would be transferred to Bangko Sentral and what would be retained by the Central Bank. So, I can see that we are not again facing the issue squarely and for this, I think we may be greatly misunderstood by the people.

Mr. President, part of the liabilities that could be transferred to the Bangko Sentral could consist of foreign debts, and it is very clear that if that will happen, this would become a burden on our people because the servicing of these foreign debts would be included in the national budget. So, not really having adequate and sufficient information as to what these liabilities are that could be transferred to Bangko Sentral makes really this issue very difficult to resolve. I would just like to state that as far as I can see, we can proceed with the creation of the Bangko Sentral without having to resolve at this particular time this very important issue.

Senator Aquino. Mr. President.

The President. Senator Aquino is recognized.

Senator Aquino. Mr. President, I would like to equate this to a family corporation. Assuming my family corporation has gone down and now owes P308 million. For myself to declare bankruptcy might make it more difficult for me later on to get rid of this big liability. Therefore, I am setting up a new family corporation and I am deciding now that whatever income is generated by the new corporation can be used to pay for the liabilities of the old corporation, and there is a no-foreclosure provision.

I think this is a very smart move to make. So that if we want to start anew, I think we have to decide once and for all what to do. From what I understand, Mr. President, and the Gentleman can

correct me if I am wrong, the new Bangko Sentral may, upon determination of the Monetary Board, absorb some or portions of the current assets and liabilities of the old Central Bank.

Any asset or liability which the new Bangko Sentral will not absorb shall be retained, administered, disposed and liquidated by the old Central Bank which shall continue to exist for such purpose.

Thus, the new Bangko Sentral shall start with a clean slate. It shall assume the old Central Bank liabilities only if the Board deems it feasible to do so. The people shall not be burdened with the payment of the old Central Bank's liabilities in the meantime.

That is what I believe, Mr. President. If that is wrong, I want the Gentleman to correct me.

The President. Is the Body ready to vote? There is a request for a nominal voting, so the Secretary will now call the roll for a nominal voting.

The Secretary then called the roll for the nominal voting.

The Secretary.

Senator Alvarez..... *No.*

Senator Romulo. Mr. President, may I ask that the Senators state their vote.

Senator Alvarez: I am for keeping the provision and against the amendments. I vote *No.*

The Secretary.

Senator Aquino..... *No.*

Senator Biazon.....

Senator Coseteng..... *Yes.*

Senator Gonzales..... *Yes.*

Senator Gonzales. Mr. President, I believe that the creation and organization of the Central Monetary Authority is separable from the question of the assumption of liabilities of the Central Bank.

I think the approval of the Tolentino proposal does not mean that we are already foreclosing this issue of assumption of the obligation of the Central Bank. But what we are merely trying to say is that, at this point in time because of lack of the necessary information, we would want to consider these issues separately from the organization of the Central Bank. And this was the position of the IMF before, to create first the Central Monetary

Authority and then later, we can consider the question of assumption of liabilities and obligations.

I therefore vote *Yes* to the Tolentino amendment.

The Secretary.

Senator Guingona..... *No*.

Senator Guingona. I vote *No*, for the reasons already stated, Mr. President.

The Secretary.

Senator Herrera *No*.

Senator Lina

Senator Macapagal..... *No*.

Senator Maceda..... *Yes*.

Senator Maceda. Mr. President, I will not reiterate all the reasons already repeated except to narrate a short story.

About two weeks ago, I met Mayor Dick Gordon at DZRH prior to his interview over "Liberty in Action," and we got to discussing Subic Bay. And I said, "What do you say now, Dick, *hindi ba lahat iyong sinabi ko sa iyo nagkatotoo?* That in the long run, it would be better for Subic Bay and Olongapo that we vote no to the US Treaty and kick out the Americans. Now, that is the only bright investment spot in our country."

If we did not kick out the Americans two years ago, in September 1991, then we would not have the situation now where there is such a competition to get concessions, lots and privileges in Subic Bay.

Mr. President, at first blush, this proposal looks very good. But as sure as I was against public opinion, risking the wrath of the administration, the Americans and public opinion, I joined the group that voted down the US Bases.

Believe me, Mr. President, this is not good for our country, this is not good for our people. If only from the viewpoint of timing, we are not going to forever not accept the P308 billion. But accepting it now will really make it difficult for the next budget to take care of all the needs of the people at this time.

So, I repeat, Mr. President, I would like to emphasize. This may not be the popular thing right now but just like the U.S. bases, in due time history will prove that we were right in not agreeing to the approval of this particular proposal.

I vote *Yes*.

The Secretary. Senator Mercado.

Senator Mercado. Mr. President, I have listened very intently to the arguments for and against the proposal of Senator Tolentino. I do realize that it is also important for us to support the Committee that has studied this measure considerably. However, I feel that the arguments of Senator Tolentino are more convincing. As a consequence, I am voting in favor of the proposed amendment.

The Secretary. Senator Ople.

Senator Ople. *No*.

The Secretary. Senator Osmeña.

Senator Osmeña. Mr. President, I would like at the outset to make it clear that the vote here is not a vote of whether or not we support the Committee. I would like to commend our Colleague, Senator Roco, for all the long and difficult hours that he put into crafting this bill. But I feel that the issues here are much too important for us to treat it in so cavalier like fashion.

I agree with Senator Gonzales that this issue is separable and it can be treated as being mutually exclusive from the issue of the constitutional mandate of creating a new Central Monetary Authority.

I am very apprehensive about this proposal because this is exactly the proposal, I think, of a lot of Makati Business Club members, that we piggy-back the sweeping under the rug of the debts and the losses of the Central Bank on a measure to create a Central Monetary Authority, which is what we are doing. We are piggy-backing. We are tucking it into this bill.

I am also concerned that we are again doing a "Pontius Pilate" on this. We are washing our hands. We are telling the new Monetary Board, "You take care, you provide them 50 percent of your profits, and then at the proper time when you no longer want to do away with the 50 percent of your profit, you find yourselves an excuse not to be paying them anymore. *Bahala na kayo riyan.*" And that to me is rather uncomfortable and distressing.

If the amendment of Senator Tolentino is defeated, then I will rise to introduce three crucial amendments. The first of which will address the question as to who will determine what assets and what liabilities the new Bangko Sentral will take in.

And I certainly do not feel that it should be just left to the *tayo-tayo* of a Central Bank Governor and a Secretary of Finance whom in the past we have often referred to as the IMF twins.

The other thing is, who will pay? I do not think, Mr. President, that we should abdicate our constitutionally mandated duty to determine how much and where the public funds go. Therefore, all monies have to be appropriated by Congress. Let Congress be the one to determine how much is needed for this purpose.

And, finally, Mr. President, I will propose that we set up in the National Treasury a Central Bank Rehabilitation Trust Fund, where a portion of the profits of the new Bangko Sentral will go, and from which this Congress can appropriate if it deems fit.

Therefore, Mr. President, I support the amendment of Senator Tolentino, and my vote is *Yes*.

The Secretary. Senator Rasul.

Senator Rasul. Mr. President, I vote *No*. However, I would have wanted the responsibilities and functions enumerated in Sections 1 to 7 to be given to the new Central Monetary Authority to make it a truly independent monetary agency as mandated by the Constitution.

The Secretary.

Senator Revilla *No*.

Senator Roco *No*.

Senator Romulo *No*.

Senator Romulo. Mr. President, I vote *No*. But, this is consistent with my position that the Central Bank is bankrupt and should be considered as such, and that whatever excess liabilities the Central Bank has over its assets, we should not raise any additional taxes to pay for these; we should not borrow any additional amount to pay for these; neither should we use existing taxes and loans to pay for these; neither should we deprive infrastructure, education and health in place of these.

What we are just saying in this section, Mr. President, and it is clear that there are certain liabilities that have to be transferred to the Bangko Sentral, and that is the liabilities for notes and coins in circulation. I cannot imagine a Central Bank which does not have that liability for the coins in circulation. That is the function of a Central Bank. Precisely, that is why we have so provided here, and the Sponsor has accepted it that with the assets and liabilities that will be transferred, the liabilities shall not exceed the assets so transferred. That is very clear here.

So I do not feel that this is inconsistent, considering the Central Bank bankrupt and that we should not raise taxes, we

should not incur loans, we should not use any amount to pay for the liabilities in excess of the asset. This is very consistent, Mr. President. That is why, a vote of *No* does not mean that we are accepting the P300 billion. Not at all. A vote of *No* does not mean that we are forgetting our obligation to our people. That is a misunderstanding and misconstruing what is clearly in this provision.

I reiterate my vote: *No* to the Tolentino amendment.

The Secretary.

Senator Shahani *No*

Senator Sotto

Senator Tafiada *Yes*.

Senator Tafiada. I vote *Yes*, for the reasons I have already stated earlier, and for the reasons advanced by Senator Tolentino, Senator Maceda and Senator Gonzales.

The Secretary. Senator Tatad.

Senator Tatad. I vote *No*.

The Secretary.

Senator Tolentino *Yes*.

Senator Webb

The Senate President *No*

The President. The Chair will announce the result of the voting.

With seven voting *Yes*, 13 voting *No*, and with no abstention, the Tolentino amendment is lost.

The Sponsor is recognized.

Senator Roco. Thank you, Mr. President, and thank you to our Colleagues.

We are now in Section 127.

The President. We are now on page 65, 66.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. With the permission of the Body, may I just go back to Section 124, page 61.

The President. That is on page 61.

Senator Guingona. It says here that there will be a phaseout within a period of five years of all fiscal agency functions provided in this section, but there is no statement as to who will assume the functions.

The President. What line is that, please?

Senator Guingona. From line 6 to line 11, Mr. President.

For clarity, we would like to state that, perhaps, it is the Department of Finance...

Senator Roco. What page?

Senator Guingona. Page 61, Section 124. There is a statement of a phaseout within five years.

The President. That is page 64, Section 124.

GUINGONA AMENDMENT

Senator Guingona. Page 64, I am sorry. It is page 61 here.

If the Sponsor will agree, just to specify that the functions will be assumed by the Department of Finance.

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute recess?

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

It was 6:17 p.m.

RESUMPTION OF THE SESSION

At 6:17 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. The amendment is accepted, Mr. President.

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

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, may I propose the following amendments to Section 127 if the Sponsor will be willing to hear them?

The President. Senator Tatad, anterior amendment?

TATAD AMENDMENT

Senator Tatad. Mr. President, before we leave Section 124, may I just propose a very minor orthographical amendment on line 7. After the word "Sentral," delete the comma (,) and move it to appear after the word "shall."

Senator Roco. Thank you, Mr. President. We accept the amendment.

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

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension on a personal matter, Mr. President.

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

It was 6:18 p.m.

RESUMPTION OF THE SESSION

At 6:22 p.m., the session was resumed.

The President. The session is resumed.

ROMULO AMENDMENTS

Senator Romulo. Mr. President, with the permission of the Sponsor, may I propose the following amendments on page 65, Section 127, line 12.

I would propose that between the words "be" and "observed," we insert the word "STRICTLY" so that the line should read: "The following guidelines shall be STRICTLY observed..."

Senator Roco. It is accepted, Mr. President.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Romulo. On line 15, "The Bangko Sentral Monetary Board shall have primary responsibility for working out.", I propose that we delete the words "have primary responsibility for working out" and instead substitute and insert "RECOMMEND TO CONGRESS" so that the line will read: "The Bangko Sentral Monetary Board shall RECOMMEND TO CONGRESS creative monetary and financial solutions," et cetera.

SUSPENSION OF THE SESSION

Senator Roco. 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 6:24 p.m.

RESUMPTION OF THE SESSION

At 6:25 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, on consultation with the Sponsor, in lieu of lines 15 to 18, we would propose the following: "a) the Bangko Sentral Monetary Authority shall have primary responsibility for working out AND RECOMMENDING TO CONGRESS creative monetary and financial solutions to retire the Central Bank liabilities and losses at the least cost to the government."

The President. What is the pleasure of the Sponsor?

Senator Roco. I think the Gentleman from Cebu mentioned in his speech earlier that he wanted to modify this. So if that is related, he may want to raise it now.

Senator Osmeña. Mr. President, that is why I have been watching here, because the amendments of Senator Romulo, as a matter of fact, are compatible with the amendment that I propose to introduce. So I will wait until Senator Romulo is finished. If at all there is a point at which there will be a potential conflict, then I will surface with my amendment.

Senator Roco. We accept the amendment, Mr. President.

The President. Is there any objection?

Senator Maceda is recognized.

ROMULO-MACEDA AMENDMENT

Senator Maceda. Not to object, but to propose an amendment to the amendment so as to deal with the matter once and for all, and that is to impose a one-year period after the composition or the organization of the Monetary Board or of the Bangko Sentral.

The President. What is the pleasure of the Sponsor?

Senator Roco. I think there is something to that effect, Mr. President. I am just looking for it.

SUSPENSION OF THE SESSION

May I have a one-minute suspension, Mr. President?

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

It was 6:27 p.m.

RESUMPTION OF THE SESSION

At 6:28 p.m., the session was resumed.

Senator Roco. Mr. President, we are ready.

The President. The session is resumed.

Senator Roco. May we just invite the attention of the Gentleman to Section 126. In Section 126, Implementing Details, Mr. President, it states: "The Bangko Sentral shall be made operational within sixty (60) days from effectivity of this Act, during which period: a) the President shall constitute the Monetary Board by appointing the members thereof; and b) the transfer of such assets and liabilities from the Central Bank to the Bangko Sentral as provided in Section 127 is completed."

With the amendment, we will give them one full year.

Senator Maceda. After the 60-day period, the intention is, they should now send to Congress their recommendations on how to solve the problem.

The President. Maybe not later than one year from the date of organization, because they may complete it before the one-year deadline.

Senator Roco. Yes. Not later than one year from the completion.

Senator Maceda. Yes.

Senator Roco. Subject to style, Mr. President, it is accepted.

The President. Let us vote first on the Romulo and Maceda amendment. Is there any objection? [*Silence*] Hearing none, the same is approved.

Senator Osmeña has the Floor.

Senator Osmeña. Mr. President, my amendment is on the same line, Section 127, but in my amendment, let me first state the idea before we translate it into the legislative language.

In my amendment I propose that we do not leave the matter of the determination of which assets and liabilities are to be transferred or assumed, but that we create a broader committee. One, because as we are legislating here today, we do not know who the new Governor of the Central Bank will be. We do not even know who the Secretary of Finance will be, and if Mr. Leung is made permanent, I do not know whether he has support in the Commission on Appointments or not, and the problems that he will be facing, given his brilliant record with the IMF in Washington, as far as the IMF is concerned.

So with these two unknown quantities, it is bruited about that a head of a government financial institution will become also a Governor of the Central Bank, and this gentleman also has lived extensively in the United States, is reportedly holding a green card, and his family is still in the United States. I am apprehensive, Mr. President, about giving this business to two people we do not know yet.

And so my idea, Mr. President, is that in addition to the Secretary of Finance and to the Governor of the new Central Monetary Authority, we add the two Chairmen of the Senate and the House Committee on Banks, Financial Institutions and Currencies, and a fifth member, the Secretary of Budget and Management, because this will also have fiscal implications. So, we will, in effect, have a five-man committee instead of just the two Gentlemen. And if that is adopted, their recommendations, following the amendment of Senator Romulo, will be subject to approval by Congress. In a situation where we cannot modify that, we either approve or disapprove. And that, essentially, is the idea behind the amendment. Now, if that idea is acceptable to the Sponsor, I will put it in the legislative language.

Senator Aquino. Inquiry, Mr. President.

The President. Senator Aquino is recognized.

Senator Aquino. The Gentleman is talking about two people. I think what the law says is the Monetary Board, which is composed of seven, and the Secretary of Finance. Those are eight people. So not two but eight.

Senator Osmeña. I am sorry, I stand corrected. But even as it stands, perhaps it should be the Governor of the new Central

Bank, the Secretary of Finance, in consultation with the Monetary Board, and the Committee Chairmen and the Secretary of Budget and Management.

The President. What about this kind of phraseology: A Committee composed of the Central Bank Governor, the Secretary of Finance, the Secretary of Budget and Management, and the Chairpersons of the Committees of Banks of both Houses, shall et cetera.

Senator Osmeña. Yes, Mr. President. I do not know how the Chairman feels about that.

The President. What is the pleasure of the Sponsor? Instead of two-party Committee determining what assets to be transferred, it is a five-member Committee that will be constituted to decide on the kind and the timing of the transfer.

SUSPENSION OF THE SESSION

Senator Roco. May I have a one-minute suspension of the session, Mr. President, for consultation.

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

It was 6:33 p.m.

RESUMPTION OF THE SESSION

At 6:34 p.m., the session was resumed.

The President. The session is resumed.

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. Mr. President, I will reformulate my amendment.

OSMEÑA AMENDMENT

On line 6, after the comma (,) following the word "Act," we put the following: "THREE MEMBERS FROM the Monetary Board, in representation of the Central Bank, THE GOVERNOR OF THE BANGKO SENTRAL" — Is this Central Bank, Mr. President?

Senator Roco. Bangko Sentral.

Senator Osmeña. Bangko Sentral. On line 7, is this Central Bank or Bangko Sentral?

Senator Roco. It will already be the Bangko Sentral.

Senator Osmeña. So, I will restate my amendment on line 6. After the comma (,) following the word "Act," we say "THREE MEMBERS OF the Monetary Board, in representation of the BANGKO SENTRAL, the Secretary of Finance, THE CHAIRMEN OF THE COMMITTEES ON BANKS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES" — that makes seven.

The President. Six.

Senator Osmeña. "AND THE SECRETARY OF BUDGET AND MANAGEMENT," which makes a seven-man body.

Senator Roco. We accept, Mr. President.

The President. Subject to style. Is there any objection? [Silence] Hearing none, the same is approved.

Senator Osmeña. I have no other amendments until page 66, Mr. President. I do not know if anybody else has an amendment.

Senator Tañada. Mr. President.

The President. Senator Tañada is recognized.

TAÑADA AMENDMENT

Senator Tañada. On line 23, Mr. President, delete the period (.) after the word "TRANSFERRED" and add the following words: "AS CERTIFIED BY THE COA." So that the proviso would read: "PROVIDED, THAT THE LIABILITIES SHALL NOT EXCEED THE ASSETS SO TRANSFERRED AS CERTIFIED BY THE COA."

Senator Roco. It is accepted, Mr. President.

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

Senator Guingona. Mr. President.

Senator Maceda. Mr. President.

The President. Senator Guingona is recognized; and then Senator Maceda.

Senator Guingona. Mr. President, perhaps I should move for reconsideration when Senator Osmeña comes back to include COA in that Committee. At any rate, we will wait for Senator Osmeña. I just wanted a clarification on lines 22 and 23,

"PROVIDED, THAT THE LIABILITIES SHALL NOT EXCEED THE ASSETS SO TRANSFERRED." May I know from the distinguished Sponsor whether the liabilities are limited to the P308 billion?

Senator Roco. That is correct, Mr. President.

Senator Guingona. It does not refer to the currency liabilities.

Senator Roco. This is where it is a gray area, Mr. President.

SUSPENSION OF THE SESSION

May we have a one-minute suspension of the session so that we can consult with the Gentleman. It is a very technical question, Mr. President.

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

It was 6:38 p.m.

RESUMPTION OF THE SESSION

At 6:39 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. By way of answering, Mr. President, the liabilities as regards notes and coins in circulation is treated separately in subsection c). So, they are separate from the liabilities referred to in Section 127 b).

Senator Guingona. Thank you, Mr. President.

Senator Roco. Thank you, Mr. President.

Senator Maceda. Mr. President.

The President. Senator Maceda.

The President. Senator Maceda is recognized.

Senator Maceda. Mr. President, since we have kept Section 127, we might as well push this along and impose some periods as we did in the first paragraph. So, on line 31, following part of the sentence which says "which shall continue to exist only for the purposes provided in this paragraph," I propose this amendment: "FOR A PERIOD NOT EXCEEDING FIVE YEARS."

Senator Roco. May we just try to explain to the Gentleman that when we do that, we will force the Bangko Sentral to try to

clean up within five years. That means, the yearly outflow will be great, and we may not want to have that inflexible period. The trick, to me, is precisely to make it 50 years or 100 years instead of five years. It is something like the longer we have for paying, the smaller. And somewhere along the line, if the Medium-Term Development Plan works, for instance, and we become NIC by the year 2000, maybe we shall afford the money involved or maybe we can invent some other solutions to solve these losses and liabilities. So, it may be difficult to put five years here, Mr. President.

Senator Maceda. I thought, Mr. President, that this is already the solution to pay for these assets and liabilities.

Senator Roco. No. It is the process and the mechanism by which it will be solved.

Senator Maceda. I was just saying, precisely, and premised it to push it along. What I am suggesting is that, in five or 10 years, after that we should really liquidate and part of it is declared as bad debts to write it off. Then whatever is remaining, either really formally at that time, have the National Government absorb it or at that time probably have the Bangko Sentral absorb it.

Meaning to say, I do not see also as having two Central Banks, one old and one new, existing for 50 years. That does not seem to be a neat situation. We are adopting this measure to phase out the old Central Bank, and we are phasing in the new and clean Bangko Sentral. To me, the faster we close down and bring down the curtains on the old Central Bank, whatever period the Gentleman wants... *Kung hindi nga natin lalagyan ng period ito, baka umabot ito ng 50 years, na nandiyan pa iyan*, with all of them still continuing to receive their salary scales, which they have now and which we cannot reduce, and they are hardly doing anything. They will not push anything to liquidate because they do not want to lose their jobs in the process.

I am just thinking of that practical factor. If there is no time limit, there is no pressure on the old Central Bank to liquidate itself, as the Gentleman is trying to say here when he said, "which shall continue to exist only for the purposes provided in this paragraph." If it has limited purposes, then there must be a time limit.

Senator Roco. I am trying to make the Gentleman understand, Mr. President. When we liquidate in five years, if, theoretically, the liability is P300 billion, we are talking of P60-billion-a-year that we are trying to liquidate. That is just a simple statement of fact.

He can continue refusing to understand that. I thought he was the one opposed to P300 billion. He is asking for payment in five years.

Senator Maceda. No, Mr. President. Precisely, I premised my statement with the facts that the amendments having been defeated, this section having been maintained, let us push it along to its logical conclusion. I am not insisting that there is P300 billion. The Gentleman himself is saying and Senator Romulo has been explaining that part of that will be transferred to the Bangko Sentral. Apparently, the good ones, the counterbalancing ones, part of that will be declared that it is not really a real liability. We will just square the books or write it off. Precisely, I am just suggesting that for the old Central Bank with the new Central Bank to take care, dispose, liquidate, write off, whatever, this P308 billion, should there not be a period? I heard the Gentleman mention that if it is 50 years, it is better. And that worries me more.

Senator Herrera here said that we will be the only country with two Central Banks for the next 50 years.

I do not know. I am not too particular about the five years. I am just asking: Is it not better that there should be some time limitation on this matter?

Senator Roco. Mr. President, the problem is, there are restructurings, for instance, entered into by the Republic, and there are various payments that come at different times. To compress into five years all these — the liquidation, administration and disposition of all these losses and liabilities — will force, by law, therefore, the Bangko Sentral to finish paying or cleaning up its obligations in five years. It will mean a big drain. And that is why, we regret we cannot accept the amendment.

Senator Maceda. I accept that, Mr. President. I understand that now. But I am not saying that there should be no limit. If the Senator says 50 years, then so be it. What I am saying is that there should be a time frame. What I am saying is if there are obligations like that which cannot be compressed in five years or 10 years or 25 years — if that is what we can agree on — then, provide a mechanism where either the new Bangko Sentral or the National Government, at that time, will absorb those obligations that cannot be compressed in five years. But this old Central Bank will have to have a life of its own that eventually, it is phased out of existence. But it cannot be open-ended anymore.

Senator Roco. Mr. President, in an effort to promote goodwill, if the Gentleman proposes it, we will consider a 25-year limit.

Senator Osmeña. Mr. President.

Senator Maceda. I yield to the Gentleman from Cebu.

The President. The Gentleman from Cebu is recognized.

Senator Osmeña. With the permission of the Gentleman on the Floor, I would like to know — because this is material to this question — where will the budget of the old Central Bank be coming from? Who will appropriate the money?

Senator Roco. Nothing. There will be no more budget. It will operate like the reconstruction trust, the resolution trust. It will operate as a holding company to preside over the liquidation of the various liabilities that may remain with a shell. It becomes a shelf corporation.

Senator Osmeña. Yes, but will it have employees?

Senator Roco. Yes, there will be a select group of employees. In many companies, Mr. President, they just have a... for instance, the new Monetary Board may also serve as just one of the top officers, whatever they call it, for the old Central Bank. But it will be a shell. And basically, it will be a shell where they can account for the different assets and liabilities as they go through the years. So that accountability will be pinpointed.

For instance, Senator Romulo wants to go to the roots of the problem, the old Central Bank will be there for him to pursue and go into the roots of the problem.

Senator Osmeña. Because there is merit to the proposal of Senator Maceda. It is a fact that in the government today, even if we have the Road Toll Regulatory Board, there is not a single road in this country today that is collecting tolls. But it is still in the budget. We have foreign-assisted projects which have long lost their foreign assistance and they are now going to the general fund budget to maintain themselves in office.

And so, Mr. President, we might have an old Central Bank 30 years down the road, with old people walking around, drawing funny, and then it will be an endless thing.

Senator Roco. No, Mr. President. In fact, the reorganization procedures require them to reorganize immediately. We have discussed that at some point in time, the mandate to reorganize under Section 128, and as covered by another provision. So, we will accept 25 years, 20 years, if suggested by the Gentleman.

Senator Maceda. I ask for five years, and the Gentleman gives me 25 years. The only middle ground is 15 years, Mr. President, *hating-kapatid*.

Senator Roco. The *hating-kapatid* will be 20, because since his proposal is 15 and mine is 25, 20 sounds like a fair and equitable division, Mr. President.

Senator Aquino. Mr. President.

Senator Maceda. I yield to the Gentleman from Tarlac, Mr. President.

The President. Senator Aquino is recognized.

Senator Aquino. I object to putting a timetable because this removes the creativity of the Monetary Board. From what we understand, we have agreed 50 percent of the income. I think if they want to give 100 percent of their profits for one year just to liquidate the old Central Bank faster, that is fine. In other words, the soonest possible time. That is the reason why we cannot tie them to a timetable. We are, in effect, liquidating an institution so that if it can be done in 10-15 years, that is fine, but to put a timetable, I think, does not serve any purpose.

Senator Maceda. Mr. President, I will not respond to that because apparently the Gentleman and I do not understand each other.

The President. What is the pleasure of the Sponsor?

Senator Roco. We will accept if the shrug of the Gentleman meant that he is proposing 20 years or not to exceed 20 years, Mr. President. We shall shrug in return and accept.

Senator Maceda. Mr. President, the Gentleman has taken out the heart of my proposal. What can I do? Thank you very much. I accept.

Senator Roco. But we have given it a soul.

The President. So the amendment is on line 31, page 65, "which shall continue to exist only for the purpose provided in this paragraph BUT NOT LATER THAN TWENTY (20) YEARS."

Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Are there any other amendments on page 66 or 65?

Senator Tatad. Mr. President, just a question.

The President. Senator Tatad is recognized.

Senator Tatad. I am trying to understand why on page 65, we sometimes use "Bangko Sentral Monetary Board" and just "Monetary Board." Will there be a point where we will have two Monetary Boards in existence?

Senator Roco. No, Mr. President. It is more draftsmanship failure that we will try to catch in all styling revisions which we will have to introduce, with the permission of the Body.

Senator Tatad. Thank you very much.

Senator Osmeña. Mr. President.

The President. Senator Osmeña.

Senator Osmeña. I heard the call for page 66.

The President. Unless there are other amendments on page 65. There are none? All right. Page 66.

Senator Osmeña. Line 5 to line 9, "The Bangko Sentral shall remit FIFTY PERCENT (50%) of its net profits to the old Central Bank WITHIN THE REASONABLE RANGE FOR CENTRAL BANKING OPERATIONS."

I really have problems with this language, Mr. President. We have discussed this. I am not going to repeat what it is all about.

Again, I am at a loss also as to really what standards to put there so that it does not become capricious on the Bangko Sentral Monetary Board, that all of a sudden it wants to use its profits for a new building, and therefore, they will not want to remit to the old Central Bank.

SUSPENSION OF THE SESSION

Senator Roco. 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 6:54 p.m.

RESUMPTION OF THE SESSION

At 6:54 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. Mr. President, we have suggested a working phrase so that on line 7, it will say, "such time when the latter's net liabilities are LIQUIDATED OR OTHERWISE DISPOSED OF THROUGH GENERALLY ACCEPTED FINANCIAL MECHANISMS."

Senator Osmeña. That is satisfactory, Mr. President.

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

Is there any amendment on page 66? On page 66A, page 67.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Just the Separability Clause.

Senator Roco. Yes, Mr. President. I am sorry I missed the Separability Clause. There will be a Separability Clause. I guess, it will be after 131...

The President. So, insert a Separability Clause between lines 23 and 24, and then renumber the section — the usual Separability Clause.

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

Senator Aquino. May I just inquire, Mr. President.

The President. Senator Aquino is recognized.

Senator Aquino. Will the old Central Bank have a Governor, because we will then have two Governors?

Senator Roco. No. The Monetary Board of the new Bangko Sentral will define the share mechanism for taking care of the old Central Bank.

Senator Aquino. I am afraid Senator Guingona might be put in the old. *[Laughter]*

Senator Roco. God forbid, Mr. President.

Senator Rasul. Mr. President.

The President. Senator Rasul is recognized.

Senator Rasul. Mr. President, I would just like to ask the Sponsor if there is any reason why in the qualifications, there is no mention of the age requirement.

Senator Roco. It did not occur to us, Mr. President.

Senator Rasul. They might appoint somebody who is 70 years old or 75 years old. Should there not be a minimum and a maximum age, Mr. President?

Senator Roco. That may be difficult. A minimum age, Mr. President, I think, we can suggest at least 35. Because if one is good enough at 35 to be a Senator, then what more can they ask?

But the qualification of 70 or so, I am not sure, Mr. President. We want to do that, considering that we may want really some very solid experience.

Senator Rasul. In which case, Mr. President, I propose under Qualifications that we put that age requirement.

Senator Roco. Thirty-five, yes.

Senator Rasul. At least 35 years old.

Senator Roco. Thank you. We accept, Mr. President.

The President. Can we take that up when we go back to page 3A — that age qualification?

Senator Tañada is recognized.

Senator Tañada. If there are no other amendments, Mr. President, may we go back to page 3?

Senator Osmeña, Mr. President.

The President. Let me just ask. Is there any other amendment on page 66?

Senator Osmeña. Mr. President, just to clarify the language of Section 128. It says, "The Bangko Sentral shall be reorganized." There is no Bangko Sentral yet, Mr. President. So I presume that this is organized, not reorganized.

Senator Roco. What section, please?

Senator Osmeña. Line 20, page 66. This could be a typographical error.

The President. "The Bangko Sentral shall be reorganized." It should be organized because it has ...

Senator Roco. Yes, that is correct, Mr. President.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. On page 66, in line with an earlier amendment and discussion. Lines 9 to 15, this is again the....

Senator Roco. What page, please?

Senator Maceda. Page 66.

Senator Roco. All right, thank you.

Senator Maceda. This is, again, the matter of going to Congress for appropriation. Could we move to delete this also,

Mr. President, with the understanding that they can come and request, anyway, even without this provision?

Senator Roco. It does not matter. We can accept that, Mr. President.

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

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

Senator Tatad. I would like to go back to Section 128, since the distinguished Sponsor has agreed to change the word "reorganized" to "ORGANIZED," perhaps, we need to reword the provision a little bit.

Senator Roco. We welcome that rewording, Mr. President.

Senator Tatad. "The Bangko Sentral shall be organized by the Monetary Board BY ADOPTING IF IT SO DESIRES an entirely new staffing pattern ON organizational structure to suit the operations of the Bangko Sentral under this Act. Personnel who may not be retained are deemed separated from the service."

Senator Roco. We accept, Mr. President.

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

If there are no more amendments, we will go back to the Maceda reservation on page 3A on the fields of expertise, the so-called disciplines.

Senator Maceda. Mr. President, the concept that I am trying to formulate in my mind is to provide that, at least, two members of the Board must have recognized competence in public finance or economics.

The President. What is the pleasure of the Sponsor?

Senator Roco. Subject to style, Mr. President, that is acceptable.

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

And the Rasul amendment on the age qualification. Can we ask Senator Rasul to state her qualification regarding age on Section 7?

Senator Rasul. Page 3A, Mr. President, Section 7 on Qualifications.

"The members of the Monetary Board must be natural-born citizens of the Philippines, AT LEAST 35 YEARS OLD. Insert "AT LEAST 35 YEARS OLD."

Senator Roco. "AT LEAST 35 YEARS OF AGE." The amendment is accepted, Mr. President.

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

Senator Maceda is recognized.

Senator Maceda. Since we have accepted the age minimum for the members of the Monetary Board, I therefore, would also — along the same line — recommend a higher age minimum for the Governor of the Central Bank, and maybe, the presidential age would be the appropriate age — 40 years old, Mr. President.

The President. What is the pleasure of the Sponsor?

Senator Roco. Subject to style, Mr. President, the amendment is accepted.

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

Then we get to the Tolentino reservation on page 4, lines 14 to 21 on the disqualification of a member of the Monetary Board acquiring any interest.

Senator Tolentino. Mr. President, I think my amendment could go into line 16 between "INSTITUTION" and "WITHIN," insert the clause "OR HAS A SUBSTANTIAL INTEREST IN ANY PRIVATE BANK IN THE PHILIPPINES."

So the disqualification will not apply only to those who are officers of a multilateral banking or financial institution, but also in case of having a substantial interest in a private local bank.

Senator Roco. All right. In a Philippine bank.

Senator Tolentino. In the Philippines.

Senator Roco. Yes. We accept, Mr. President.

Senator Shahani. Mr. President.

The President. Senator Shahani is recognized. Is there reference to the Tolentino amendment?

Senator Shahani. Yes, Mr. President.

Senator Roco. I am sorry. The Lady was the author of this.

Senator Shahani. Mr. President, I purposely did not include the domestic bank because I thought that the members of the Monetary Board should essentially have a banking experience. And if we include the international and the domestic experience, it might be difficult to find actual members with a banking experience. So, we might be getting people from the academe instead of economists. I would agree in principle but in practice, we would really be eliminating quite a number of people. Now, I put the multilateral banking or financial institutions mainly because of the connection with the IMF or the World Bank, but maybe Senator Roco might think about it, but this must be restricting the field too much.

SUSPENSION OF THE SESSION

Senator Roco. If we can request the Gentleman because the Lady, as the original author of this, I should have asked her permission before accepting an amendment. But if the Lady is not amenable to accepting an amendment, how does the Gentleman from Sampaloc, Manila, feel?

May I have a one-minute suspension, Mr. President.

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

It was 7:05 p.m.

RESUMPTION OF THE SESSION

At 7:06 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. We have discussed, Mr. President, and the consensus is to accept, and we do accept.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is approved. That completes all the individual amendments.

Senator Tañada. Mr. President.

The President. Senator Tañada is recognized.

Senator Tañada. I was not around, Mr. President, when we were considering amendments on page 3 and page 6. On page 6, Mr. President, I notice that the President of the Philippines is being given the power to decide who from among the members of his Cabinet will be appointed to the Monetary Board of the

Bangko Sentral. I can understand and appreciate this point but at the same time, I remember last night the distinguished Gentleman from Tarlac had proposed the exclusion of the Secretaries of Finance and Budget and Management among those to be considered for appointment to the Monetary Board. So, if we would limit our choice to officials with economic background, Mr. President, this would leave us to the NEDA director general. That would seem to be the logical choice.

Senator Roco. Mr. President, earlier there was discussion among the various Colleagues and there are different feelings about this. So, it seems the best compromise was to leave it really open so that the President can select the Cabinet member who he feels is appropriate under the circumstances. Even as we manifested, and I think our various Colleagues who felt strongly against the Secretary of Finance have manifested that the President would be better advised not to, in fact, appoint the Secretary of Finance; that we leave that now to Executive discretion, if that is all right. There are disadvantages also and some of our Colleagues are also opposed to the NEDA, the Lady and several others. So, maybe we can leave it that way as an exercise of Executive discretion.

Senator Tañada. Was it because, Mr. President, of the experience, happy or otherwise, that the Central Bank had when Secretary Monsod sat in the Monetary Board?

Senator Roco. No, Mr. President. That was never even figured in my mind. It was not at all. In fact, that could have been used as an argument to persuade me, but that never entered my mind.

Senator Tañada. So the sentiments, as we see it, is to leave this to the President?

Senator Roco. Yes, Mr. President.

Senator Tañada. But with the caveat that during the deliberations here in the Senate on this provision, the sentiments were expressed that ...

Senator Roco. Against the Finance, Mr. President, very strongly.

Senator Tañada. Yes, Mr. President. So in view of that, Mr. President, I will not anymore propose my amendment in lines 10 to 14 which would have asked for the appointment or designation of the Director General of NEDA to the Monetary Board.

On the same page, lines 15 to 23, I notice that of the five members coming from the private sector to be appointed to the Monetary Board, two shall serve part-time. I would like to propose an amendment to this.

I believe that all five members coming from the private sector should be full-time for the reason that there would be the problem of conflict of interest as far as the part-time members are concerned.

SUSPENSION OF THE SESSION

Senator Roco. 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 7:12 p.m.

RESUMPTION OF THE SESSION

At 7:13 p.m., the session was resumed.

The President. The session is resumed.

Senator Tañada is recognized.

Senator Tañada. Mr. President, I have just talked to the distinguished Sponsor on my proposed amendment to have all the five members coming from the private sector to be appointed to the Monetary Board full time, and after listening to his explanation, I am withdrawing my proposed amendment.

My last amendment deals with Section 14, on page 6, and I propose that we delete lines 13 to 34. I submit, Mr. President, that personnel of the Central Monetary Authority should not be exempted from the provisions of the Salary Standardization Law.

While I understand the need to keep the compensation levels attractive in order to attract competent personnel, I am concerned, Mr. President, that we may be creating a privileged class within the government sector. NAPOCOR has asked for the same exemption. And I understand that PNB, DBP and the Land Bank, among other government corporations, are also asking for the same.

Granting that exemptions from the Salary Standardization Law are in order, Mr. President, I submit that it would be more prudent to address the problem directly through an amendment of the law, that is the Salary Standardization Law, and not through piecemeal legislation.

If the Central Bank and other government-owned corporations are having problems with the Salary Standardization Law, then the problem should be addressed in one sweep, Mr. President. *Hindi katulad po ngayon na parang paisa-isa. Kahapon NAPOCOR, ngayon CMA, bukas DBP, GSIS, SSS, Land Bank.*

And further, Mr. President, this would be very hard to explain to our people especially to the layman who would see that the personnel of the CMA would be receiving relatively higher salaries despite the inefficient and inept performance shown by some, I will not say all, of their officials and employees.

We all know, Mr. President, that in private companies, once they fall into the red, one of the very first steps they consider is to impose austerity measures, cut costs and streamline the organization, not to grant any increases.

I have been informed, Mr. President, that the Central Bank has been generous with its personnel expenses. Based on the annual reports of the Commission on Audit, the Central Bank spent approximately P1.42 billion for commutable allowances for the period 1985 to 1991. And for 1990 alone, I am informed commutable allowances amounted to P323.68 million, or an average of P202.68 million annually. Now, for the same period, I am informed bonus and incentives totaled P368.7 million. And in 1988 and 1989, the Central Bank, I am informed, spent P2.5 million in subsidies and advances to employees availing of a P34-million car fund. Fortunately, the car plan was subsequently suspended. But the point is, Mr. President, all of these while the Central Bank is supposed to be hemorrhaging from its billion of pesos losses.

So, I propose, Mr. President, for these reasons, the deletion of lines 13 to 24 on page 6.

Senator Roco. Mr. President, we are fully appreciative of the reasons of the Gentleman. But in the spirit of the amendments which even increased the proposed salary as submitted in our Committee, we feel that we cannot accede to the request for amendment.

Senator Tañada. On this point, Mr. President, I would ask for a division of the House.

The President. Perhaps we should call the attention of our Colleagues. There is now a call for a division of the House on the Tañada amendment. The Tañada amendment would delete lines 13 to 24 of page 6 which exempts the new Central Bank from the Salary Standardization Law. Is the Body ready to vote? Is there any remarks?

Senator Roco. May I just remind our Colleagues, Mr. President, that in the discussions, and there were many amendments — in fact, the Committee only recommended a P100,000 total remuneration package. But in the various discussions, there were proposals that were urged to even increase the salary structure. And it was in that spirit, guided by the prior

debate, that the Committee felt we could not accede to the deletion, because then, we will have to review again the other portions.

So, much to our regret, Mr. President, we will seek support of our Colleagues to say no to the proposed amendment.

Senator Maceda. Parliamentary inquiry, Mr. President.

The President. Please state your inquiry.

Senator Maceda. I just want to know if what is being sought to be deleted is the whole paragraph from lines 13 to 24.

Senator Tañada. Yes, Mr. President, lines 13 to 24, page 6.

Senator Maceda. Because I have a possible compromise. I think that either the first sentence or the second sentence should be good enough to assure a better compensation. But giving them both, that they are exempted from R.A. No. 6758, *pagkatapos mayroon pa silang* exclusive right to adopt their own Productivity Award System, *doble-doble ito*. So, I would be willing to compromise to knock off one of these, at least, so that we do not have to discuss it any farther.

SUSPENSION OF THE SESSION

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

It was 7:22 p.m.

RESUMPTION OF THE SESSION

At 7:23 p.m., the session was resumed.

The President. The session is resumed.

Senator Tañada. Mr. President, I accept the proposed amendment of Senator Maceda to my amendment.

Senator Roco. We will, therefore, delete, Mr. President, the second sentence and on that understanding, the Committee accepts the proposed amendment.

The President. Is there any objection?

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. Just to clarify, Mr. President.

Under this new setup, would a janitor or a toilet cleaner in this new Bangko Sentral be earning more money than the janitor of the Senate?

Senator Roco. They could.

Senator Osmeña. That is the problem I have, Mr. President, with addressing this problem by institutions, PACC, Bangko Sentral and this organization or that. Because there are certain jobs, like the lower rank and file, the janitor, the sweeper, the toilet cleaner who really do not do anything special, just because they are cleaning the corridors of the Central Bank.

So, can we not put, Mr. President, a grade below which these provisions will not apply — Grade 12, 10?

Senator Roco. The Committee is open to suggestion of that nature, Mr. President.

SUSPENSION OF THE SESSION

Senator Osmeña. May I have a minute suspension, Mr. President.

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

It was 7:24 p.m.

RESUMPTION OF THE SESSION

At 7:29 p.m., the session was resumed.

The President. The session is resumed.

Senator Osmeña. Mr. President, amendment on line 19. Remove the period (.) after the number "6758" and add "PROVIDED, FINALLY, THAT EMPLOYEES UNDER GRADE 9 OR LOWER SHALL BE PAID IN ACCORDANCE WITH THE SAID LAW" meaning, Republic Act No. 6758.

Senator Roco. It is accepted, Mr. President.

The President. Is there any objection?

Senator Maceda. Mr. President, I will not object. I will just abstain. It seems to me that we are going against the principle that we are discriminating against the low-salaried employees in an office. In most cases, it is usually the lower-ranking employees that need the adjustment more. I understand the rationale being proposed by Senator Osmeña. Why should a janitor in the Central Bank get P7,500 and a janitor in the Senate get P3,102? If we are

going to cut it at that level, it seems to me we are discriminating against the low-salaried employees.

We have a salary grade range, if I am not mistaken, Mr. President, up to Grade 32. Those executive types are probably between Grade 23 to Grade 32. If we really want to make sure that the vice-president types of the banks will come in, it should be cut off at around Grade 23 level and that the Standardization Act should still refer to those around Grade 22 and below. But if we cut it off at Grade 9 and below, we are just hitting only the drivers, the janitors, the filing clerks, the messengers.

The Gentleman will only be cutting off a part of my heart again if he does that. My heart bleeds for these people, Mr. President.

Senator Osmeña. If that is an amendment, Mr. President, I move that we reconsider the prior approval of my amendment which was accepted by the Sponsor, and I will accept the amendment of Senator Maceda that the grade level should not be Grade 9 but Grade 22 instead.

Senator Maceda. After consulting the principal Author of the Standardization Law, the distinguished Majority Leader, he confirms that the executive group is really Grade 23 and above. I think that is where the Gentleman really wants to have some leeway to get some people in at the executive level. So I propose the amendment to the amendment to Grade 22 and below.

Senator Roco. Mr. President, may we then move to reconsider the prior decision.

The President. Is there any objection to the motion for reconsideration? [*Silence*] There being none, the amendment is reconsidered.

Senator Roco. Mr. President, with the amendment to the amendment having been accepted by the Proponent, the Committee accepts.

The President. Is there any objection to the amendment as amended? [*Silence*] Hearing none, the amendment is approved.

Senator Rasul. Mr. President.

The President. Senator Rasul is recognized.

Senator Rasul. Mr. President, on page 6, I will read the paragraph from line 25: "On the recommendation of the Governor, appoint, fix the remunerations and other emoluments, and remove personnel of the Bangko Sentral subject to pertinent civil service laws:". There seems to be an inconsistency here.

On page 6, it makes mention of pertinent Civil Service laws. But on page 66, Section 128, the entire section is violative of the Security of Tenure Law, Republic Act No. 6656. This is a Civil Service law, so there is an inconsistency here, Mr. President.

Senator Roco. Maybe we can explain that, Mr. President. In the latter portion, it is only in the transitory provision. This one will prevail after the transitory provision. In other words, in the regular course, they must be protected by Civil Service laws when the Bangko Sentral is already operating as a Bangko Sentral. But in Section 128, it refers to the transitory provision and so we have an exemption.

Senator Rasul. I do not see any exemption from Republic Act No. 6656 in Section 128, Mr. President. This is clearly violative of Republic Act No. 6656. Unless, of course, the Gentleman wants to delete pertinent Civil Service laws on page 6 so there will be no inconsistency. We do away with civil service laws.

Senator Roco. May we ask the Gentle Lady the provision that she is looking at in Section 128?

Senator Rasul. The entire Section, Mr. President, when we speak of organizing the Monetary Board which will include adopting an entirely new staffing pattern, et cetera, and on line 23 which states: "And personnel who may not be retained are deemed separated from the service. No preferential or priority right shall be given to or enjoyed by any personnel for appointment to any position in the new staffing pattern nor shall any personnel be considered as having prior or vested rights with respect to retention in the Bangko Sentral or in any position which may be created in the new staffing pattern, even if he should be the incumbent of a similar position prior to reorganization."

While I understand the spirit behind this Section is not to hamstring the new Central Monetary Authority, but there should be some consistency in the provisions of this law, Mr. President. Either we recognize existing Civil Service laws or we do not. If we still recognize the existing Civil Service laws, there should be some amendment somewhere in Section 128.

Senator Roco. What is the desire of the Lady, Mr. President?

Senator Rasul. As of the moment, Mr. President, I cannot think. I just noted the inconsistency.

Senator Roco. Maybe we can take it up as a styling matter to avoid inconsistencies, Mr. President.

Senator Osmeña. Mr. President.

The President. Senator Osmeña is recognized.

Senator Osmeña. In connection with the observations of Senator Rasul, and I reread that paragraph, I always have trouble with that paragraph, Section 128.

I just talked to Senator Gonzales because I remember earlier in the day he raised the issue whether or not the Bangko Sentral was a successor organization to the Central Bank. It is not. It is a new, separate, distinct organization.

So, actually, I would suggest we just delete all of Section 128. There is really no need to mandate that it should organize because it has to organize. And then we will rid ourselves of all the problems that Senator Rasul has been talking about.

Senator Maceda. Mr. President, let me just raise a related point which was brought out in the interpellation and I refer to page 64, Section 126, the last paragraph of which states: "All incumbent personnel in the Central Bank as of the date of the approval of this Act shall continue to exercise their duties and functions as personnel of the Bangko Sentral, subject to the provisions of Section 128."

If we delete Section 128, then, automatically, what this means is that all the old employees of the old Central Bank are transferred and become employees of the new Bangko Sentral.

Senator Osmeña. Mr. President, therefore what we should do is also delete lines 30, 31 and 32 on page 64 up to line 4 on page 65.

Senator Maceda. I agree, Mr. President. If we will delete Section 128, we should also delete this lower part of Section 126.

Senator Roco. Mr. President, I will call attention again that these are transitory provisions. I leave it to the Body to decide this. If it wants that there is no such guideline, that is of no consequence to the Committee. I leave it to the Body's superior judgment if we delete those things.

Senator Osmeña. Mr. President, I so move that we delete Section 128, lines 30, 31 and 32 on page 64 up to lines 1, 2, 3 and 4 on page 65.

SUSPENSION OF THE SESSION

Senator Roco. Mr. President, may we have a one-minute suspension?

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

It was 7:38 p.m.

RESUMPTION OF THE SESSION

At 7:41 p.m., the session was resumed.

The President. The session is resumed.

Senator Osmeña. Mr. President, perhaps to give the Committee staff another opportunity to really take a second look at this concept of whether or not the Bangko Sentral is going to be a successor organization to the Central Bank, and what are they going to do with their employees, I withdraw my amendment. Anyway, this is not the end of the story. There is still a Conference Committee, and I just hope that the distinguished Chairman will look at this matter and will ask the staff to really see how the transition can be worked.

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

The President. The motion is withdrawn. Senator Rasul is recognized.

Senator Rasul. Mr. President, on page 6, that last "Provided" it does not seem to make sense. "Provided, That the Monetary Board shall have exclusive and final authority to promote, transfer, assign, or reassign personnel of the Bangko Sentral and these personnel actions are deemed made in the interest of the service and not of the effective administration and operations of the Bangko Sentral."

It does not seem to make sense. I propose to delete the word "not" on line 31 and the word "of" on page 7, line 1. So, we delete the words "not of" so that the last line will read "are deemed made in the interest of the service and the effective administration and operations of the Bangko Sentral."

Senator Roco. Mr. President, maybe we both have a missing page. There is no page 6A. We both have no page 6A. Can we just get page 6A. Yes, after looking at page 6A, there is no need.

The President. The motion is withdrawn. The Majority Leader is recognized. Before that, Senator Tolentino is recognized.

Senator Tolentino: Mr. President, I would like to be just enlightened on a certain matter here, and that is with respect to the existence of the Central Bank. On page 66, at the top, the proviso reads: "Provided, Finally, That upon disposition of said retained assets and liquidation of said retained liabilities, the Central Bank shall be deemed abolished." How long will that take?

Senator Roco. Earlier, Mr. President, an amendment was proposed that it must happen within a 20-year period.

Senator Tolentino. So the Central Bank will continue existing for 20 years.

Senator Roco. As a self-company, Mr. President, that will act as a liquidator.

Senator Tolentino. But on page 67, line 13, the provision is "Upon constitution of the Monetary Board pursuant to Section 126 of this Act, Republic Act 265, as amended, is deemed repealed."

How can we continue the Central Bank for 20 years after Republic Act No. 265 has been repealed?

SUSPENSION OF THE SESSION

Senator Roco. May we have a one-minute suspension of the session, Mr. President. I think there is something missing.

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

It was 7:43 p.m.

RESUMPTION OF THE SESSION

At 7:44 p.m., the session was resumed.

The President. The session is resumed.

Senator Roco. Mr. President, the point is well-taken. We will have to relate it, subject to style, because it must be related to the 20-year provision that the distinguished Gentleman from Manila put in.

The concept, Mr. President, will be that the old Central Bank will stay as liquidator and that the Charter will be ineffective. Actually, we need to work it out.

Senator Tolentino. I do not know if that is clear enough in the bill, Mr. President.

Senator Roco. We are willing to listen to the distinguished Gentleman, Mr. President.

Senator Tolentino. I just called attention to that because it seems to me inconsistent. I do not know how the Committee will make this clear. Maybe some clarification is needed here to avoid what apparently is an inconsistency in the duration of the existence of the Central Bank after we approve this bill. Well, I would leave that, anyway, to the Committee because I just want to call attention to it.

And then on same page 67, Section 131, it says: "All references to the Central Bank of the Philippines in any law or special charters shall be deemed to refer to the Bangko Sentral." How is that?

Senator Roco. In the sense, Mr. President, that because there are other laws like the General Banking Act, that we will use the term "Central Bank of the Philippines" instead of modifying those other laws. Or even in the Rural Banking Act, there will be a reference to the Central Bank of the Philippines.

Senator Tolentino. Yes, I understand, Mr. President. What I mean is, if actually there will be two banks coexisting for a certain period, at least for 60 days there will be two banks coexisting. How can reference to the Central Bank, which is still existing, be considered to refer to the Bangko Sentral?

At the time after the repeal of Republic Act No. 265, maybe this could apply. But while RA No. 265 is not yet repealed, that means the Central Bank exists and all references to the Central Bank actually will refer to it, not to the Bangko Sentral.

Senator Roco. As far as the functions of central banking are concerned, Mr. President, the references to the Central Bank of the Philippines in other laws will then be transferred to the Bangko Sentral.

TOLENTINO AMENDMENT

Senator Tolentino. I would like to make a suggestion, if the distinguished Sponsor does not mind.

Section 131, perhaps the provision might begin with the phrase "AFTER THE REPEAL OF REPUBLIC ACT NO. 265"; then all references to, et cetera.

Senator Roco. We accept that amendment, Mr. President.

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

The Majority Leader is recognized.

Senator Romulo. Mr. President, I move that we close the period of amendments.

Senator Tatad. Mr. President.

The President. Senator Tatad is recognized.

TATAD AMENDMENT

Senator Tatad. One last minor amendment, Mr. President. I was not here when page 8 was being discussed.

On line 31, between the words "to" and "rules," I propose the deletion of the word "the," and, in lieu thereof, the insertion of the word "SUCH."

Senator Roco. We accept, Mr. President.

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

Senator Romulo. Mr. President, I move that we close the period of amendments.

The President. Is there any objection? [*Silence*] The period of amendments is closed.

SUSPENSION OF THE SESSION

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

It was 7:50 p.m.

RESUMPTION OF THE SESSION

At 7:59 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

Senator Romulo. Mr. President, we have already closed the period of amendments. I now move that we approve Senate Bill No. 1235 on Second Reading.

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. I am just guessing, but I think the Tatad amendment was probably the 199th amendment or thereabouts on a 68-page bill or more, including the "A's." I think proper procedure and good legislation requires that we, at least, know what we are voting for. It has been standard and accepted tradition that before we vote on a bill on Second Reading, especially if it is an important, exceptionally long bill, the Members of the Senate be furnished with a clean copy of the bill.

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 8:00 p.m.

RESUMPTION OF THE SESSION

At 8:00 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

Senator Romulo. Mr. President, I reiterate my motion that we approve Senate Bill No. 1235 on Second Reading.

Senator Maceda. Mr. President, because we do not want to be again accused of trying to stall this bill in spite of what we call the "haste" — we will cut off the "indecent" — in which it has been approved, the Majority Leader has suggested, and we have agreed upon consultation with the Minority Leader that we will agree to a Second Reading today provided we are given a clean copy before a Third Reading vote is called.

Senator Romulo. We will comply with that, Mr. President.

APPROVAL OF SENATE BILL NO. 1235
ON SECOND READING, AS AMENDED

Senator Romulo. Mr. President, I move that we vote on Senate Bill No. 1235 on Second Reading, as amended.

The President. We shall now vote on the bill, as amended, on Second Reading. As many as are in favor of the bill as amended, please say *Aye*. [*Several Senators: Aye*] As many as are against please say *Nay*. [*Some Senators: Nay*] The *Ayes* have it. Senate Bill No. 1235, as amended, is approved on Second Reading.

The Majority Leader is recognized.

CONFERENCE COMMITTEE
ON SENATE BILL NO. 1235/HOUSE BILL NO. 7073
(The New Central Bank Act)

Senator Romulo. Mr. President, in consultation with our Colleagues, we shall have the vote on Third Reading next week.

In the meantime, I ask the consent of our Colleagues to nominate the Senate panel in the Bicameral Conference Committee that will have to meet to reconcile the disagreeing provisions.

So if there are no objections, I ask that the Senate approve the following as Members of the Senate panel to meet with the House on the disagreeing provisions: Senators Roco, Ople, Guingona, Tafada, and Tolentino.

The President. Is there any objection to the composition of the Senate panel?

Senator Romulo. No objection, Mr. President.

The President. There being no objection, the motion is approved.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, 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 8:02 p.m.

RESUMPTION OF THE SESSION

At 8:03 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President I move that we suspend the session until four o'clock on Monday afternoon.

The President. The session is suspended until four o'clock on Monday afternoon, if there is no objection. [*There was none.*]

It was 8:04 p.m.

June 7, 1993

the moment this law becomes effective after publication in the Official Gazette or the newspapers mentioned, the Central Bank Law will be repealed, and the Central Bank will have no existence at all except as may be indicated as a liquidating body. It cannot operate anymore as a Central Bank; therefore, it cannot continue with supervision and examination.

There will be no basis for continuing with supervision and examination of banks. That is something that should be very carefully studied. Because until this new Bangko Sentral is fully operational, there may be no authority for anybody to make examination of banks or exercise supervision over banks once the Central Bank Charter is repealed as provided in the repealing clause.

Senator Roco. Mr. President, the Gentleman is part of the Conference Committee, and we shall be guided precisely by the advice of the Gentleman to make sure that the transition will not create gaps in the implementation.

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, 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 5:10 p.m.

RESUMPTION OF THE SESSION

At 5:12 p.m., the session was resumed.

The President. The session is resumed.

BILL ON THIRD READING

Senate Bill No. 1235 — The New Central Bank Act

Senator Romulo. Mr. President, inasmuch as the points have been clarified, I move that we vote on Third Reading on Senate Bill No. 1235.

The President. Voting on Third Reading on Senate Bill No. 1235 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. Senate Bill No. 1235, entitled

THE NEW CENTRAL BANK ACT.

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll for nominal voting.

The Secretary called the roll and the result of the voting was as follows:

Yes - 19

- | | |
|-------------------|--------------------|
| Senator Alvarez | Senator Rasul* |
| Senator Angara | Senator Revilla* |
| Senator Aquino* | Senator Roco* |
| Senator Gonzales* | Senator Romulo* |
| Senator Guingona* | Senator Shahani* |
| Senator Herrera | Senator Sotto III* |
| Senator Lina* | Senator Tatad* |
| Senator Mercado* | Senator Tolentino* |
| Senator Ople* | Senator Webb* |
| Senator Osmeña* | |

No - 3

- Senator Coseteng*
- Senator Maceda*
- Senator Tafiada*

Abstention - 0

EXPLANATION OF VOTE OF SENATOR AQUINO

Senator Aquino. Mr. President, I vote in favor of the bill. May I submit the written explanation of my vote.

The following is the written explanation of vote submitted by Senator Aquino:

Finally, the marathon debates and interpellations have come to an end. We are now called upon to vote on the proposed Central Bank Act.

We have spent long hours poring over the salient provisions of this bill. It has passed our agonizing (As Senator Roco may attest) scrutiny. Yet we know its passage today will mean the end of further debate and agonizing study. The bill as passed by the Senate will still have to be reconciled with the House of Representatives' version of the Central Bank Act. I can only hope that the final version of the bill will not prove to be an onerous burden upon our people, and in this respect I speak of a crucial divergence this bill possesses from the House version — the manner of shouldering the existing Central Bank's liabilities.

* With explanation of vote

Let it not be said that we in the Senate shirked from doing our part in rebuilding and revitalizing our nation's economy. This bill is part and parcel of our objective. For the record, let me now enumerate the reasons why I cast my vote in favor of this bill:

First, the greater number of private sector representatives in the Monetary Board assures the board's independence from the Executive Department, thereby diminishing the chances of our country's monetary policies being subservient to the attainment of foreign loans and credit arrangements.

Further enhancing the Bangko Sentral's independence and efficiency is the provision which allows the monetary board to provide a compensation structure for the Bangko Sentral, including the power to grant across-the-board salary increases or modify the compensation structure as to result in higher salaries.

Second, the proposed act provides for greater transparency and accountability to Congress, as evidenced by the reports which the Bangko Sentral must regularly submit: the monthly general balance sheet, a quarterly analysis of economic and financial developments, the preceding year's budget and statement of profit and loss, a yearly report on the state of the financial system, any abnormal movements in monetary aggregates and prices, and of course, the annual report.

Third, advances made by the new Bangko Sentral to the National Government shall be paid within a definite period, thereby ensuring that the Bangko Sentral shall not be a milking cow of the government, as we have sadly experienced in prior administrations.

Finally, and most significantly, the bill provides that the new Bangko Sentral may, upon determination of the monetary board, afford some or portions of the current assets or liabilities of the present Central Bank. Any asset or liability which the new Bangko Sentral will not absorb shall be retained, administered, disposed and liquidated by the old Central Bank which shall continue to exist for such purpose. Thus, the new Bangko Sentral shall start with a clean slate. It shall assume the old Central Bank's liabilities only if the board deems it feasible to do so. The people shall not be burdened with the payment of the old Central Bank's liabilities.

I vote for the approval of this bill.

Maraming salamat po.

EXPLANATION OF VOTE OF SENATOR COSETENG

Senator Coseteng. Mr. President, I would have wanted earlier to deliver a short speech. However, I would give in to the request of our Senate President to just incorporate the speech in my explanation of vote.

I rise to speak on a matter of privilege. I find it disturbing that we are often called upon to extend our sessions in order to pass laws which the administration has certified as urgent; laws which are meant to avert or address national calamities and emergencies; laws which are controversial and which need much dissection and study before they are voted upon and approved.

Mr. President, just a few months ago, we were forced to extend our session in order to pass the Emergency Powers Law which would help the President solve the present power crisis. And since then, we have still been plagued with eight to 12 hours.

Senator Mercado. Mr. President.

The President. Senator Mercado is recognized.

Senator Mercado. May I raise a point of order?

The President. Please state the point of order.

POINT OF ORDER

Senator Mercado. I do understand that we are on the Third Reading of this measure. From what I hear, I think the Lady Senator is delivering a piece as a matter of personal privilege. May I just inquire if this is the explanation of her vote.

We are in the process of voting.

Senator Coseteng. Yes, Mr. President. This is a preliminary statement I would like to make before I explain my vote.

The President. The Gentle Lady can continue as part of the explanation of her vote.

Senator Coseteng. And since then, we still have been plagued with eight to 12 hours of brownouts, and now we are asked to refrain from adjourning on schedule in order to pass the New Central Bank Act and the Cigar and Cigarette Tax bills.

What disturbs me, Mr. President, is not the fact that we are compelled to work extra hours to ensure the passage of these laws. But what upsets me is the fact that this Chamber is forced to work in haste to pass complicated measures that require much consultation, meditation and thorough analysis. Not all of us are brilliant economic managers and, perhaps, this is the seeming handicap that gives the IMF-World Bank and their allies in government the upperhand in bamboozling us to approve the measures.

Mr. President, it is also alarming to note that we are all too willing to labor extra hours upon receipt of a certification from the Office of the President, whether or not there is an emergency.

Why did we not take up and discuss these urgent matters much earlier?

The Committee under Senator Roco obviously needed more time to go over these documents and, perhaps, more time for consultations. Many other inputs, perhaps, have not been included or considered in the drafting of this bill.

I would like to congratulate the Committee for all the laborious hours that have been put into the crafting of this bill. But even the Committee had been working under immense pressure; even the Committee, perhaps, could have done things better had it not been pushed to meet a deadline.

How many of our people outside this Chamber, Mr. President, know of the implications and consequences that they would have to face if this CMA bill is passed? Will this law, in effect, be appreciated by Mang Pandoy? Is this the law that he can hang on to give him and his grandchildren the opportunity to better their standards of living?

I ask now whether or not this procedure we have adopted is a surreptitious way of ensuring the passage of these controversial laws which require much debate and discussion. It is not surprising that some of our Colleagues feel that these bills are being rammed down our throats, and that this practice has been adopted to abbreviate debates which would showcase the weaknesses and flaws of these laws further.

Mr. President, this was also the same experience that we had in the House of Representatives.

Mr. President, we have been often accused of working too slowly and the Speaker of the House has done exactly that. But I would rather work slowly and surely than have a bill railroaded through this Chamber only to regret the consequences later and forever be damned by our people.

The bill in consideration is certified as urgent. It was meant to avert a national emergency.

I ask, Mr. President: Will our economy collapse if a new Central Bank is left uncreated for a few more months? Who exactly in government is pushing to pass this new bill? What national emergency would occur if this bill is not passed in a week or in a couple of month, at least, for our people to know what is going on?

Mr. President, I find this practice of rushing the discussion and passage of important measures improper. I therefore hope that the Senate will not allow the repetition of this, for it smells of insidious machinations or arbitrariness to believe — and I, too, believe — that the Senate should remain independent and not

subservient to any other branch of government, most especially if this subservience goes beyond being subservient to another branch but rather, perhaps, even to foreign pressures.

Alas, the actions we have taken so far do not bear this out. If this is how independent this practice is, I dare not think of what enslavement would be like. The answer lies perhaps, Mr. President, in that the President indeed could have been pressured as well by the IMF-World Bank, which is the key entity in the hasty passage of this bill. *Mukhang tayo ang binibigyan ng deadline. Baka naman iyong June 30 na deadline na ibinibigay ng IMF-World Bank ay hindi na natin maaatrasan.*

Mr. President, initially, as reflected in the clean copy, I was a signatory to the CMA bill in compliance with Article XII, Section 20, of our Constitution. I was made as a coauthor, which I was.

After listening to the debates, after listening to our Colleagues, I view the points back and forth, listening intensely to the merits and demerits of the case. I am compelled to vote *No* to the CMA bill. In the process, I would like to quote a paper written by Armando Armas, Jr. concerning this matter. I feel that these excerpts are necessary to be inputted in order for us, our Colleagues and our people to feel some sense of insecurity concerning the passage of this bill, and I quote the paper, Mr. President:

Against the odds, the World Bank has imposed the most definitive conditionality on CMA independence. The reduction of fiscal dominance, unlike other conditionalities such as Monetary Board composition, tenures, CB objectives, among others, is hardly influenced by those being appointed. It is easy to monitor and difficult to evade. Unlike the others, therefore, the reduction, if not the elimination of fiscal dominance, appears as the most debilitating part of the package for independent CMA.

Suspectedly, the World Bank and IMF have been zeroing ultimately on the curtailment of fiscal dominance over the Central Bank in order to impose fiscal discipline on the national government. With constraint fiscal borrowing, the national government is forced to reduce its budget deficits mostly by fiscal policies, particularly higher taxes rather than by inflationary financing. And higher taxes is the only source that we can think of, I suppose, to bridge this deficit since we are no longer allowed to borrow from the CMA.

The World Bank, the IMF, among others, conclude that the unlimited fiscal intervention during the Marcos Regime caused the accumulated CB mega losses. In retrospect, however, the rigid adherence to the IMF imposition as the Brettonwood system could have been the bigger cause of the CB mega-losses in foreign exchange, forward cover and swaps. The Central Bank should have abandoned currency convertibility following the 1971 Kissinger-Nixon unilateral abrogation of the Brettonwood Agreement. Such could not be done, however, because the Philippines was under the World Bank and IMF, at least for external loans.

At the darkest hours, Mr. President, the Central Bank stood by the original IMF imposition of keeping the fixed exchange of the peso vis-a-vis other currencies and abided with the IMF Agreement on convertibility. In a legal sense, therefore, these nationalist reactions are explicit in the CB Charter which should not be part of the proposed new Charter because the formerly IMF-inspired fixed exchange system has already been discarded worldwide. With the changing financial wind, the IMF instead advocated the floating exchange system.

To continue, Mr. President, I quote:

In the Pacific basin, industrial countries such as Japan, Canada, Australia and New Zealand, their governments are allowed to access with their respective Central Banks for direct credits. Yet, in these countries, the governments have alternative private credit sources including the vast Euromarkets. In sharp contrast, the poor countries have undeveloped money markets where the insolvent government can hardly go for credits.

To continue, Mr. President:

In the Third World, the Philippines is a country prone to calamities, low intensity conflicts and natural disasters. The "moral" equivalent of war.

Should the Republic be not entitled to deficit financing as done in more industrial countries? Are the World Bank terms politically palatable particularly during national calamities, rebellion and disasters? Without fiscal dominance, it is hard to conceive of a feasible arrangement whereby the National Government can finance socially desirable budget deficit due to lower employment and production during wartime equivalent of calamities, disasters, emergencies and political crisis.

Will the President again need emergency powers from Congress to borrow from the Central Bank in such times?

Ironically, in times of crisis, when the Philippines is occasionally entrapped, the World Bank fiscal conditionality prohibits the Central Bank from financially assisting substantively the National Government, but it does not bar the Central Bank from bailing out insolvent private financial corporations.

A CMA independent from the National Government but not from the powerful bank for international settlements. Rich and generous members of Central Bankers may just, during a crisis, bail out the private financial system at all cost.

The other reason, Mr. President, is that this Representation is in disagreement with the fact that the new Central Bank must shoulder the losses to the tune of P308 billion, which up to this time we have not been given any kind of accounting or rationalization.

Of course, figures are pushed back and forth, and P308 billion is gargantuan in any language. Since this fact has not been adequately clarified, I would not take the risk of voting in the affirmative in order to be sorry later.

Mr. President, perhaps it may sound good that the new Central Bank is not going to absorb the liabilities of the old Central Bank. However, it is also important for us to take the CB officials in the past to task. Those responsible for these losses must explain why and how, and more importantly, why Mang Pandoy should now pay for this mismanagement or, in certain cases in the event that corruption or treason may even be involved.

Mr. President, it is important for us also to understand that the new CMA could be a vehicle by which we could extricate ourselves from this slavery from the IMF-World Bank. It could be the dawning of that new beginning that we have always been longing for.

But if we allow ourselves to remain forever strapped because of these conditionalities, then, again, we are going to be sorry for greater amounts later, apart from the losses that we have to shoulder, Mr. President, which eventually will deprive our people of further services, more facilities, infrastructure and much needed ingredients to lay the foundation for economic recovery.

On the contrary, Mr. President, the new Central Bank could well be our way to doom.

Mr. President, I feel uncomfortable of being a harbinger of bad news, but all angles will have to be considered. And in view of all of these, I vote in the negative to the CMA.

I wish that in the future, things would be clarified further, and not just for the benefit of those who are going to make the decision. But public opinion must so vitiate by adequate information in the language that could be understood by the majority of our people. Most of these debates, most of these statements, most of what we are discussing is totally "Greek" to the majority of our people who undoubtedly will be the ones to bear the consequences and the sufferings later on.

Thank you, Mr. President.

EXPLANATION OF VOTE OF SENATOR GONZALES

Senator Gonzales. Mr. President, my distinguished Colleagues.

During our session last Saturday, I voted *Yes* to the Tolentino Amendment because I believe that the creation and organization of a Central Monetary Authority as mandated by the Constitution is separable from the issue of the assumption of the losses and

liabilities of the Central Bank said to amount to P308 billion exclusive of the liability for notes and coins computed at about P89 billion.

While I believe that we in Congress must determine what to do with the Central Bank losses and liabilities, I felt that the limited time and absence of all pertinent data and information made us unprepared to deal with this very important issue right now.

Indeed, as late as last Saturday and only in the form of an amendment coming from the Floor, a committee of three members of the Monetary Board in representation of the Bangko Sentral, the Secretary of Finance and the Secretary of Budget and Management in representation of the government, and the Chairman of the Committee on Banks of the Senate and the House of Representatives was constituted to determine the assets and liabilities of the Central Bank which may be transferred to or assumed by the Bangko Sentral.

When an amendment of such a substantive nature is to be made on the Floor without too much deliberation, accepted by the Sponsor and approved by this Body, then there is something really that goes against the very preparedness of this Body to deal with a very important bill.

But the amendment to the then Section 127, now Section 125 of this bill, was rejected by this Body, although I found myself in a distinguished company.

The issue may have been resolved by this Body and as part of a deliberative body, I accept its decision in accordance with democratic parliamentary processes.

A study of Section 125 of this bill persuades me that it is a better plan than that provided in the House bill which provides for an immediate assumption by the National Government of all the losses and liabilities of the Central Bank. At least in this bill, the Central Bank will have to come to Congress every year in case it needs, as it will surely need, new appropriations instead of providing for automatic ones. For I cannot, by any logic or reason, understand and would allow our people already buffeted by poverty to bear the burden of paying this staggering amount. The Senate version, therefore, Mr. President, appears to be the lesser evil between the two.

Therefore, I am constrained to vote *Yes*, with extreme reluctance but serving notice that in the event that the House version is adopted by the Bicameral Conference Committee, I reserve my right to vote otherwise.

Thank you, Mr. President.

EXPLANATION OF VOTE OF SENATOR GUINGONA

Senator Guingona. I vote *Yes*, Mr. President.

EXPLANATION OF VOTE OF SENATOR LINA

Senator Lina. Mr. President, I vote in favor of this measure with a reservation to submit an extended explanation later. But I would just like to say a few words in connection with the amendment which Senator Tañada and I introduced last Saturday concerning the liabilities that will be transferred from the old Central Bank to the new Bangko Sentral.

The amendment that we had wanted to introduce was to make sure that only justifiable liabilities shall be transferred from the old Central Bank to the new Bangko Sentral. However, the amendment was accepted with an amendment, and the accepted amendment only went this way: "Provided that the liabilities shall not exceed the assets so transferred as certified by the Commission on Audit."

Let me state, for the record, Mr. President, that I still maintain some reservations as to the effectiveness of this amendment in making sure that only those liabilities that are justified will be transferred from the old Central Bank to the Bangko Sentral.

I just would like to put into the *Record* that the understanding that I put into this amendment is to the effect that only those justifiable liabilities will be so transferred from the old Central Bank to the new Bangko Sentral with the certification by the Commission on Audit that the assets that will also be transferred are those assets that have value.

Thank you very much, Mr. President.

The following is the written explanation of vote submitted by Senator Lina:

I vote in favor of the CMA Bill subject to the amendments agreed upon during the deliberations.

Mr. President, I am convinced that this bill will finally breathe life to the desire of the Filipino nation for a stronger and more improved Monetary Board as manifested by the ratification more than six years ago of the present Constitution.

Our nation must have a strong economy, for which reason, sound economic policies and plans must be pursued. All these, however, must be implemented by an equally sound and strong institution, I am persuaded that this bill I now affirm will provide our nation with such an institution. The creation of the CMA would do much to provide the much needed boost for our dwindling economy. I am only hopeful

that the administration will place men of probity and integrity with a keen sense of nationalism to the key positions of this institution we now establish. For this CMA can only be as good and as effective as the men who shall stand at its helm.

It is about time that ours no longer be a subservient economy. This, I believe, can be attained with the bill that I now vote in favor of. I am confident that we have been able to successfully streamline the operations of the CMA such that it would no longer be the cold and indifferent bureaucracy that it is today.

And if only because I am hopeful that the CMA would be able to better serve the economic interest of the people, I believe that the ultimate burden that shall befall our people with respect to the repayment of the P308 billion shall be mitigated if not justified.

EXPLANATION OF VOTE OF SENATOR MACEDA

Senator Maceda. Mr. President, I have extensively put into the *Record* my position during the debates and during the *turno en contra* speech. And so, as we come to the Third Reading, I guess it is not necessary to repeat the same, but just to express our position in the simplest and clearest language possible.

So, I say, first, this bill is not sufficiently discussed to be ready and ripe for decision.

Second, there has been no assurance, but only a hope, that this bill will work. Frankly speaking, I do not believe that it will work.

Third, this bill is another in a long series of Executive Department action and/or recommendation that is, in effect, an acceptance of the interference of a foreign body into our internal affairs.

Next, Mr. President, a *Yes* vote in this bill would, in effect, be a ratification or an affirmative legislative participation in what is basically an undesirable and what I believe, at least in spirit if not in language, as an unconstitutional act.

Mr. President, this bill is not even a sincere act on behalf of the Executive. I just have the gut feeling that this is a step caused by a mere sense of panic.

Mr. President, the revenue collections are down; the deficits are up. Unemployment is up. Business is up in arms in protest certain government policies and decisions that have been adopted. The whole population is in a perspiring frustration about the energy crisis.

This step, as I said, is just a way to, well, "Let us get over this problem. In the meantime, let us create this Bangko Sentral.

Whether it will work or not, it is better to create something than doing nothing at all."

And so, the \$US450 million has been dangled to us since last December yet, or what I call "450 pieces of silver" which we seem to need out of a state of mere panic. Thus, we have been rushed into approving this measure.

Mr. President, the bottom line is — and I take exception to the Bicolano proverb — "Those who refuse to see cannot see." I state without any reservation that, precisely, I see the dire implications, the dishonorable implications, the unconstitutional implications, the shameful implications of again going down on our knees and prostrate ourselves before the lords of the IMF for "450 pieces of silver." Probably, not even silver, just "silver-coated."

Mr. President, we are rushing this bill, and we are placed under the gun because it is rushed at a time when we are in a *sine die* situation. This is worse than a shotgun marriage. I do not believe that the administration will enjoy the honeymoon out of this shotgun marriage. I doubt if the administration will even be able to consummate this marriage; whether it is because the bridegroom is unable to or is really unwilling to, or whether it is because the bride is just too ugly and not yet ready for the consummation. That, to me, is the result of this procedure.

For all these reasons, Mr. President, and for all the long and well-researched reasons I have already stated in my *turno en contra* speech, I regret very much that I cannot vote for a bill where the bottom line is transferring to the taxpayers, to the Filipino people, P308 billion in additional debts which should have been paid by the criminals, the cronies, and the accessories of the old administration and of the old Central Bank.

I vote *No*, Mr. President.

EXPLANATION OF VOTE OF SENATOR MERCADO

Senator Mercado. Mr. President, I was one of the seven who voted in favor of the amendment of Senator Tolentino on then Section 127, now Section 125 in this measure before us. I did agonize on my vote as I do realize that in a democratic body, the wisdom of the majority should prevail.

So, in spite of my serious reservations, I believe this is the best we can come up with, I vote in favor of this measure.

EXPLANATION OF VOTE OF SENATOR OPLE

Senator Ople. Mr. President, I vote *Yes*, and I would like to express my appreciation not only to the Chairman and principal Sponsor of this bill, the distinguished Gentleman from Camarines Sur, for the valiant and humane manner in which he exercised his

office as Chairman, but also to all the various critics, including some of those who voted *No*, who, in spite of their modesty and self-deprecation, have actually and considerably improved this bill, which is now before us on Third Reading.

Mr. President, in the interest of expeditious proceedings, I would like to reserve a more extended written comment to explain my vote, but I believe it would be sufficient to say at this time that this bill — the so-called CMA bill — at least, the Senate version of it, seeks to respond to a very urgent need at this stage of our economic life. It will give a fresh start to a monetary policy that has been seriously encumbered by the albatross of losses and obligations contracted in the past, and over which the immediate rectification of such blunders and losses may no longer be said within the control of this august Body. However, the bill does make it possible for any of these liabilities to be subjected to future scrutiny, putting it in a box, the shell of the old Central Bank which will be, in effect, the Office of Liquidation for all of these obligations.

But, Mr. President, we cannot demand ideal conditions for performing our work in the Senate, neither can we reasonably demand the absence of deadlines and pressures as the condition for meeting urgent necessities of our economy and of our country. The Senate has been under time pressure before. I believe it is to its credit that it has always responded not by going into a state of panic, but by mobilizing or mustering the collective wisdom, talent and energy of this Body in order to meet a national necessity.

I reiterate, Mr. President, my vote of *Yes*.

The Referral sent to Senator Ople was returned duly signed with the following note: "OK as corrected. No further statement required."

EXPLANATION OF VOTE OF SENATOR OSMEÑA

Senator Osmeña. Mr. President, I vote *Yes*.

I do not claim that this bill is the most ideal, but I have been in legislative bodies, Mr. President, since I was elected to the city council of Cebu in 1963, 30 years ago, and legislation is the art of compromise, of getting what is important for you, and yielding on other issues.

And so, therefore, Mr. President, as the Author of Senate Bill No. 367, which was incorporated in this bill, I would like to commend our Chairman, Senator Roco, for having brought forth the bill that we are now considering.

Mr. President, I am particularly pleased with the fact that the Monetary Board will now have an opportunity, and I mean

an opportunity because the realization of that opportunity will depend upon who the President appoints, but at least we will have provided an opportunity for independence from the Executive Department.

Historically, from the time that the Central Bank was instituted in 1951 until 1972, when martial law was declared, the members of the Monetary Board were appointed from the private sector. It was Ferdinand Marcos in 1972 who put members of the Cabinet, his alter egos, in the Monetary Board. And in 1986, when the Aquino Government came into office, because Mrs. Aquino surrendered the monetary and fiscal policy-making functions of her government to Mr. Jaime Ongpin and the Council of Trent, this was further amplified by a third member of the Cabinet sitting in the Monetary Board. So the Monetary Board of Marcos had even become a greater area of influence for the Executive under President Aquino.

And this, Mr. President, we have corrected in this bill wherein we will have members of the Monetary Board who will be appointed from the private sector and no longer members of the Cabinet.

I am also, personally, very proud that the Author has agreed to accept amendments that I introduced on the Floor. One, an amendment on transparency, which will now lay bare and naked the proceedings of the Monetary Board heretofore shielded in secrecy and kept away even from the Senate of the Republic of the Philippines.

I am also proud, Mr. President, in having introduced the amendment, which is now Section 125, which allows the two Chairmen of the two Committees of Congress, the Senate and the House Committees on Banks, Financial Institutions and Currencies, to sit in the determination of the disposition of the assets and liabilities of the old Central Bank.

And finally, Mr. President, for a long time I have been badgering the Executive Department about making the treasury bills of the government available to Aling Nena and her P1000. Because heretofore we could not buy directly from the Central Bank or the government a treasury bill, one, because it was denominated in hundreds of thousands and two, because it was only available to an exclusive cabal constituting government securities, which were actually just the commercial banks, so that they profited from these treasury bills, getting paid at 12 percent, while they gathered the savings of the poor at 6 percent and relented this to the government at 12 percent. So our poor can now access the treasury bills and make 12 percent on the bill instead of having to surrender their money to the commercial banks which would only be paying them 6 percent.

And I am proud, Mr. President, of that amendment.

Mr. President, I am also proud that finally, after six or seven long years, we have passed this bill. This bill was mandated and is mandated in our Constitution. This is mandated in the Constitution, defective and full of problems as it is, that we ratified in 1987, and it languished for six years under the Salonga Senate, which had other priorities.

And finally, Mr. President, in this Senate we are approving it into law.

For these and many more reasons, Mr. President, which I will incorporate in an extended statement for the record, I reiterate my affirmative vote.

EXPLANATION OF VOTE OF SENATOR RASUL

Senator Rasul. May I explain my vote, Mr. President.

The root cause of the Central Bank's problems is the continuing deterioration of its financial condition. The Central Bank over the years has piled up losses, including assets whose earnings are significantly less than the cost of carrying them. Any loss it incurs immediately translates into an increase in the monetary base, which in turn increases the level of liquidity, which in turn exerts pressure on the general price level leading to inflation.

The problem, Mr. President, is that the Central Bank cannot use its open market operations, without incurring additional losses in the subsequent period, simply because it does not have a sufficient stock of securities, and therefore any open market operations will have to be done by issuing its own interest-bearing instruments.

To reduce the issuance of its own interest-bearing instruments, the Central Bank resorts to other means. One is to keep the reserve requirement high and pay low interest rate on the reserves, effectively taxing the financial system and, ultimately, the borrowers.

Mr. President, it would be imprudent from the point of view of development policy to allow the Philippine financial system to be continually burdened with an ineffective Central Bank. The eventual elimination of the Central Bank losses, which is the primary reason for the ineffectiveness of the present Central Bank, would enable the new Bangko Sentral to retain control over its monetary and exchange rate policies as it would not have to be heavily burdened with losses arising from its normal monetary management operations.

The elimination of the Central Bank's losses as envisioned by the new Central Monetary Act will also enable authorities to lower intermediation costs, thereby enhancing the efficiency of

the banking system, and fostering the development of a broad-based money and capital market needed for sustained growth and development.

Mr. President, there are some flaws in the bill which I hope the Conference Committee will thresh out. I am bothered by the fact that Civil Service laws, particularly Republic Act No. 6656, will be thrown to the winds in the implementation of this Act. However, Mr. President, flaws and all I still vote *Yes*, because this bill is a must.

EXPLANATION OF VOTE OF SENATOR REVILLA

Senator Revilla. Mr. President, I would like to explain my vote.

I vote *Yes* for the approval of Senate Bill No. 1235 not only because it is mandated by the Constitution but because I believe that the measure will help reshape and improve the existing monetary structure of the country and help it achieve sustained economic growth.

So much debates, energy, time, effort and even unpleasanties have been spent deliberating this bill. Having heard and read such debates, I have decided, even if reluctantly, to side with some of my Colleagues to vote on a measure that will make our people pay for the liabilities that the Bangko Sentral will absorb from the old Central Bank.

Mr. President, the kind and quality of decisions we make for our people are not always popular. Often, we get blamed for policies that failed to translate into improving the quality of life for our people. But, Mr. President, that is only one aspect of governance. Another aspect calls for leaders to make decisions that will take care not only of the present but also of the future no matter how harsh it may take.

The CMA bill is not a perfect measure nor is it a remedy or solution for our chronic economic ills. *Ngunit naniniwala ang Representasyong ito na ang CMA, sa bandang huli, ay magiging isa sa mga kasagutan sa pagbuo ng mga makahulugan at napapanahong fiscal and monetary policies ng ating bansa. At umaasa ako na hindi man maging agad-agad ang mga lantarang resulta ng CMA, ang pagbuo naman nito ay magiging simula ng isang pangmatagalang pagbabago sa ating pamamalakad-salapi.*

I, therefore, reiterate my affirmative vote. Congratulations to the Author of this bill, Senator Raul Roco, and thank you, Mr. President.

EXPLANATION OF VOTE OF SENATOR ROMULO

Senator Romulo. Mr. President, before anything else, let me join my Colleagues in congratulating the distinguished Senator

from Camarines Sur and Bohol for a masterful work that he has produced in Senate Bill No. 1235, the new Central Bank Act.

I vote *Yes*, Mr. President. Let me read some excerpts of the remarks I have prepared which I am introducing *in toto* into the *Record*.

Today, I reaffirm my position on the Central Bank losses and liabilities. This position has been amply expressed and discussed in my privilege speeches and in the interpellations here, among others, on January 20, 1992, February 3, 1993, and June 1 and 2, 1993.

Mr. President, the time to bite the bullet is now. Let me say it again and again: no more taxes for CB losses and liabilities — none, whatsoever. No more debts and no more deficits for CB losses and liabilities — none, whatsoever. Neither the National Government nor the new Bangko Sentral should assume the CB losses and liabilities.

By its own admission and charter, Mr. President, the old Central Bank is insolvent. It is bankrupt. The whole world knows it. The World Bank said so in its report.

I therefore vote to approve the establishment of a new, independent and unencumbered Bangko Sentral ng Pilipinas. I also propose, Mr. President, the following:

A. A full in-depth and immediate audit of the old Central Bank's assets and liabilities, as well as its books and records. Full accountability for the losses and liabilities should be established. Let no one be spared. No one is above the law, past and present.

B. On the basis of the old Central Bank's remaining assets, set the priority of payment in accordance with law.

C. Review the list of guarantees and private sectors' debt assumed by the Central Bank. As reported by the *Far Eastern Economic Review* in its 1992 issue, I quote:

The origins of the problem go back to the late 1970s and early 1980s when the Central Bank was used by Marcos to assist favored companies, and later as a tool to resolve successive crises. As a result, companies were able to borrow abroad, with complete protection against a loss on the value of the peso. As the peso declined, the added cost of servicing for debt were borne out not by the companies but by the old Central Bank.

D. Pursue the full recovery of ill-gotten assets, holdings, gains and profits related to the old Central Bank losses and liabilities.

E. Require congressional approval and appropriation for all expenditures and payments, if any, of the old Central Bank losses and liabilities.

Mr. President, our people expect and demand no less from us.

Let us not fail them.

Thank you.

EXPLANATION OF VOTE OF SENATOR SHAHANI

Senator Shahani. Mr. President, first of all, let me congratulate the distinguished Chairman of the Committee on Banks, Financial Institutions and Currencies, Senator Roco, for his ability and skill in sponsoring this important bill on the Floor. His hard work, his patience and his capacity to negotiate helped everyone of us.

Mr. President, today, we are to lay a cornerstone of our economy as we extricate ourselves from a sad and shameful chapter of our history and build a new banking institution, a bank of banks, the new Bangko Sentral — the emergence of a new Bangko Sentral enjoying independence, guided by law and not by the whims of one man, conscientized by transparency that is less secretive and more open to the public, mandated by accountability based on responsibility and motivated by a renewed commitment to national pride and integrity.

The new Monetary Board, Mr. President, is refashioned by this Act and will work with a recreated Bangko Sentral together will rechart the course of our monetary system to meet the challenges of the future. I trust that our hopes for the new CMA will not be disappointed.

Senate Bill No. 1235, Mr. President, is an act of independence to benefit our people, and we hope that the members of the Monetary Board will not forget this.

It is also my view, Mr. President, that concerning the transfer of assets and liabilities, the solution proposed by the bill in Section 125, that is to retire Central Bank liabilities and losses by the Monetary Board at the least cost to the government, is a just and honorable proposal. I hope, with all my heart, that this principle will not be lost in the Conference Committee.

I also would like to thank Senator Roco for accepting my individual amendments which became part of the Committee amendments. My efforts in presenting these amendments were to ensure the independence and integrity of the Monetary Board.

Mr. President, I vote *Yes*.

EXPLANATION OF VOTE OF SENATOR SOTTO

Senator Sotto. Mr. President, many sentiments have been expressed in favor of and against Senate Bill No. 1235. But allow me to look at it at a different perspective.

Forty-four years ago, Mr. President, this august Chamber passed the Central Bank Act of 1949, and one of the principal authors was the late Senator Vicente Sotto I. And so, to me, at this point of our history, to be a small part of this new Central Bank Act is an honor.

I cast an affirmative vote.

EXPLANATION OF VOTE OF SENATOR TAÑADA

Senator Tañada. Ginoong Pangulo, ang inyo pong lingkod ay labis na nababahala sa pagmamadali natin sa pagpapatibay ng panukalang-batas na ito nang hindi lubos na napag-aaralan, napag-iisipan, napag-uusapan at napagdedebatihan ang mabibisang paraan upang ang P308-bilyon pagkalugi ng ating kasalukuyang Bangko Sentral ay hindi na mautil at iyan ay mabigyan ng kalutasan. Napakalaki ng halagang ito, at mabibigat ang mga problemang kasangkot nito, kaya dapat lamang na huwag nating daanin sa bilis at sa pagmamadali ang pagbabalangkang ng isang bagong Bangko Sentral. Ilang gusaling pampaaralan, ilang pagamutan o ospital, gaano kahabang mga kalsada, ilang pamilihing bayan, ilang paliparan at pook-daungan at iba pang mahahalagang istraktura ang maitatayo sa pagkaluging P308 bilyon?

A June 2, 1993 letter from Malacañang certified to the necessity of the immediate enactment of the Senate bill on the New Central Bank Act, "to meet a public emergency arising from a failure to create an independent Central Monetary Authority as mandated by the Constitution."

Mr. President, the words "public emergency" conjure images foreboding untold hardships and sufferings, of foreseen dangers which could inflict harm and injury to our almost dying economy. Malacañang is under obligation to inform our people what constitutes the public emergency it has in mind.

Ito po bang "public emergency" na ito, Ginoong Pangulo, ay yaong pagkukulang sa nasingil na buwis ng ating BIR at Customs? Ito po ba ay ang pagkaubos ng kaban ng bayan dahil sa walang patumanggang pagwaldas ng salapi ng bayan, at ang pagtatatag ng isang bagong Bangko Sentral ay isa sa mga kundisyon para tayo ay pautanging muli ng mga banyagang bangko at samahang pinansiyal? O kaya naman, Ginoong Pangulo, ang "public emergency" bang ito ay ang pagbabanta ng IMF-World Bank na kung hindi tayo magtatatag ng isang bagong Bangko Sentral, tayo ay kanilang pagagalitan, papaluin at pagkakaitan ng kanilang pagkalinga? Dapat liwanagin ng Malakanyang kung ano nga ba iyang malalaking panganib na ating haharapin kung sakaling ang panukalang batas na ito tungkol sa pagtatatag ng isang bagong Bangko Sentral ay hindi mapapasa sa sesyong ito.

Mr. President, we are one with President Fidel V. Ramos and the other Members of this Chamber in complying with the

constitutional mandate for the creation of an independent Central Monetary Authority. We agree with him and with others in this Chamber in this regard. We do not, however, agree with him that the present proposal, Senate Bill No. 1235, should be deliberated upon with great haste.

Kami po, Ginoong Pangulo, ay naniniwala sa ating kasabihan na "Ang lumalakad ng matulin, kung matinik ay malalim." Huwag po nating apurahin ang botohan sa panukalang-batas na ito at baka tayo ay magsisi at buntunan ng sisi sa hinaharap na panahon. Marami pang ibang puntong dapat pag-usapan, pag-isipan at pagdebatihan, katulad ng mga sumusunod:

1) The constitutional command is for the establishment of an independent Central Monetary Authority, majority of the members of its governing board to come from the "private sector." The independence of the Central Monetary Authority, as envisioned by the framers of the 1987 Constitution, proceeds from the majority representation of the "private sector."

With the kind permission of the President, let me read into the *Record* of this Body some of the relevant points brought out during the deliberations of the Constitutional Commission on this matter which we were not able to take up during the debate on this measure.

Mr. Villegas, one of the Commissioners in that Constitutional Commission, said:

MR. VILLEGAS. xxx First of all, I would like to reiterate what we said earlier that the word "private" includes cooperatives, labor organizations, private monetary organizations and all types of social groupings that are not part of the government.

This can be seen from the Constitutional Commission Proceedings of Wednesday, August 13, 1986, p. 281.

Commissioner Villegas went on further to say:

We use "private groups" just to highlight the fact that we do not mean "profit-making or capitalistic enterprises." We mean all the possible ranges, the whole spectrum of social groupings, as Commissioner Garcia was saying, that can work for the common good which do not have to be capitalistic enterprises. (*Ibid*, p. 282)

And Commissioner Villegas further suggested to the Members of Congress the following:

So we are very open to suggesting to Congress — and we can put it on record — that the Monetary Board be composed of predominantly the private sector to include representatives from labor and farmer sectors and so on and so forth.

Finally, on this point, Commissioner Suarez asked:

MR. SUAREZ. Can we state clearly in the record that when we speak of "private sector" under Section 10, we also have in mind the inclusion of the appropriate representatives from the labor and peasant organization?

To this question, Commissioner Villegas answered a definitive *yes*. This can be seen from the CONCOM Proceedings of August 22, 1986, p. 611.

Mr. President, it is clear that labor and peasant organizations must be represented in the Monetary Board in order to attain the desired measure of independence. After all, they constitute the bulk of our population and therefore would either reap the benefits or suffer the hardships which result from the policies formulated and determined by the Monetary Board.

Mr. President, the time is too short for us to carefully deliberate on how labor and peasant organizations could find meaningful participation in the membership in the Monetary Board. We do not know if this matter can be adequately addressed in the Bicameral Conference Committee.

Mr. President, to disregard the requirements of sectoral representation could raise an additional constitutional infirmity to the CMA bill.

2) Mr. President, we called the attention of this Chamber in our January 19, 1993 privilege speech of the existence of approximately P308-billion CB losses. It may be of interest to note that the P308 billion we were referring to as an approximation of CB losses is now approximately P316.6 billion as of December 31, 1992, an increase of about P9.1 billion from an approximate deficit of P307.5 billion as of November 1992.

Mr. President, as of December 31, 1992, Central Bank assets totaled P586.297 billion as against its liabilities of P583.711 billion or a positive net worth of P2.586 billion. The assets include the three *ampaw* accounts. By that, we refer to the Monetary Adjustment Account, the Exchange Stabilization Adjustment Account and the Revaluation of International Reserve Account, totaling P316.562 billion, which, if deducted from the CB assets, would result in a CB net worth of negative P314.066 billion. *Lugi ang Bangko Sentral ng P316.6 billion.*

Mr. President, we do not profess to be an expert on central banking but we have cause for concern when a loss as of November 1992 amounting to P307.5 billion increases to P316.6 billion by the next month or an increase of P9.1 billion over one month. We are likewise alarmed when the estimated negative Central Bank net worth as of August 1992 of P298.7 billion rose to P314.066 billion by December 1992 or an increase of P15.366 billion over a period of four months. It would be of paramount public interest for the Central Bank to release its preliminary figures for the period ended May 31, 1993.

Mr. President, is this the public emergency President Ramos was referring to in his June 1993 certification as to the necessity of immediately enacting the New Central Bank Act? Is this continuous hemorrhage of CB funds the reason for the presidential concern? Then, we must be told, and the public has the right to know whether the CB could still honor its liabilities, principally its liabilities shown on currency notes which contain the Filipino statement, "*Ang salaping ito ay bayarin ng Bangko Sentral.*" *Kaya pa bang sagutin ng Bangko Sentral ang bayaring ito?*

Mr. President, up to now, the Central Bank has not fully explained to the satisfaction of our people how it incurred its losses and liabilities which, as of December 31, 1992, now stand at P316.6 billion. It is bad enough that in the final analysis, whether the loss or liability is to be transferred to the National Government or to be paid for by the new Bangko Sentral, the ultimate burden for the loss or liability is to be carried by the already overloaded shoulders of our people. What makes matters worse is that while we do not as of yet have a clear understanding of how the P307.5-billion losses and liabilities as of November 1992 were incurred, we are now faced with an unexplained and hidden additional loss of P9.1 billion as of December 31, 1992.

Mr. President, we need a clear understanding of how the Central Bank incurs losses and liabilities, and it is only with this understanding that we could draft legislation to prevent a future recurrence.

Mr. President, the consideration of any proposed legislation to create a new Central Bank requires the resolution of the following issues:

a. How did the Central Bank incur its losses and liabilities amounting to P307.5 billion as of November 1992? How did these losses and liabilities increase by P9.1 billion as of December 1992?

b. What steps should be undertaken to prevent the continuous increase in Central Bank losses and liabilities?

c. What specific provisions should be provided for in the charter of the new Central Bank to minimize possible losses and liabilities it may suffer considering past experiences and projected future conditions?

d. Who shall absorb the CB losses and liabilities, and how shall they be paid? and —

e. How shall the liabilities equivalent to the *ampaw* assets represented by the three accounts now be paid and who pays for them?

Mr. President, until these questions are answered, until adequate study is made to define the role and participation of the

private sector in the Monetary Board, until President Ramos has explained to our people the public emergency he was referring to when he certified the urgent passage of the new Central Bank Act, until we are satisfied that future CB losses shall be minimized, and until we are assured that the features of the new Central Bank would ensure its independence not only from the Executive but from foreign domination, dictation and influence, only then, Mr. President, would this Representation be ready to vote in favor of this bill creating a new Central Bank.

For the foregoing considerations, Mr. President, and faced with the reality that the P308-billion losses and liabilities will eventually be borne by our suffering people, I am constrained to vote *No* to Senate Bill No. 1235.

Thank you very much.

EXPLANATION OF VOTE OF SENATOR TOLENTINO

Senator Tolentino. Mr. President, may I just briefly explain my vote.

Mr. President, it is very unfortunate that a bill as important and as far-reaching as Senate Bill No. 1235, a bill that would affect not only our national economy, but our national life as well, had to be rushed in this Chamber.

I can understand the anxiety of the President in certifying to the urgent necessity of approving this bill, but I cannot swallow the fact that we have to do this because of a necessity of pleasing or complying with the requirements of the IMF-World Bank.

I just read in the papers this morning that when the bill was sponsored in the House of Representatives, the Sponsor emphasized that unless this bill is approved by the end of June, we may not be able to get from the IMF a structural loan of \$450 million. So fast did we deliberate on this measure which is of extreme importance, that we are passing a measure tonight with certain deficiencies and uncertainties which could have been, perhaps, avoided if we have more time to deliberate on this bill.

I would like to cite just a couple of instances of this. First, we are not certain really whether the Bangko Sentral we are establishing is not a successor or is a successor of the present Central Bank. I think the Constitution intends that this Bangko Sentral should not be a successor of the present Central Bank. And this has been the answer given to us on the Floor during the debate, that this is not a successor of the Central Bank of the Philippines. And yet, when we read the provisions of the bill, we come to entertain doubts about this.

First, while we are told that this is not a successor, yet a very important provision on the bill provides for transfer of assets and liabilities of the present Central Bank to the new Bangko Sentral. Is that not succession? I would ask.

Second, there is a provision here transferring to this Bangko Sentral the personnel of the present Central Bank. Is this not succession? This doubt could have been eliminated, Mr. President, if we had really more time to deliberate on this measure.

Here is another point which was raised a few minutes ago. There is a hiatus under this bill with respect to supervision and examination of banking and financial institutions. By the express terms of the Repealing Clause, upon the effectivity of this bill, the Central Bank Act, RA No. 265, is repealed. The moment RA No. 265 is repealed, the juridical existence of the present Central Bank will terminate and all its operations will have to cease. As explained to us by the distinguished Sponsor, the Central Bank will become a shell and will simply be a liquidating body. The only functions of a liquidating body are two or three: first, to gather the assets of the entity under liquidation; second, to pay the liabilities of that entity; and third, to distribute whatever assets may remain after paying the liabilities and obligations.

These are the functions of a liquidating body and, therefore, the Central Bank, as a central bank, will cease to operate and there will be no institution that will supervise the present banking system or the financial institutions of this country. Why? Because the Bangko Sentral Monetary Board will not come into existence until the President organizes the new Bangko Sentral. And he has 60 days to do that under the provisions of the bill. If he can accomplish this in 60 days, that means for 60 days, there will be no institution or entity supervising and examining the banking system in this country. This is a very serious hiatus that we find in this measure, Mr. President.

Another uncertainty we find in this bill is what assets and liabilities are going to be transferred to the Bangko Sentral coming from the present Central Bank.

The provision of the bill is that certain officials representing the Central Bank and the Philippine Government and the Congress will come into agreement as to what are these assets and liabilities to be transferred. And yet, Mr. President, very important functions are vested in these officials but no criteria, no standards are set forth in this measure as to what are these assets and liabilities that are going to be transferred to the new Bangko Sentral. This is again a serious deficiency.

But what I consider a very fundamental deficiency in this measure is that while we say that the Bangko Sentral shall be

capitalized at P50 billion to be fully subscribed by the Philippine Government and of this P50 billion, P10 billion will be fully paid up, where will the government get this P10 billion?

There is no appropriating clause in this measure. I have glanced at the House bill, and there is no provision appropriating a single centavo for the payment of the paid-up subscription for this Bangko Sentral. Where will the Bangko Sentral get its operating capital? It will not come into operation without any money because it cannot do so. That is a very serious deficiency that we could have perhaps remedied if we had more time to deliberate on this measure.

Mr. President, these are only a few that I have found out after we actually approved the bill on Second Reading, and this shows that if we had more time for deliberation, more time for study, perhaps these deficiencies and these doubts would not have crept into this measure that we are voting upon today.

Mr. President, when I spoke in my *turno en contra* against this bill, I suggested that if two principal provisions were not removed from this bill, I would vote against it. Aside from minor defects that I have pointed out in this bill, I stressed on two principal concerns that I had.

First is the provision of the original Section 25 which practically allows examiners of the Central Bank to invade the secrecy and confidentiality of bank deposits. I argued against that; I pointed out that this is harmful to the economy of the country because if there is no confidentiality, and the examiners of the Central Bank are allowed to examine bank deposits, there is a danger of leakage of this information. And this leakage could expose certain rich, big depositors to become targets of kidnapping syndicates.

It can also mean unfair competition among banks because unscrupulous banks may pirate big depositors and investors who may be leaked out by the examiners. And when investors and depositors become afraid to deposit in banks and would rather hoard their money, that will mean reducing the credit facilities available to our businessmen and our industries. That will mean reduction in production, that will mean unemployment, and that would simply be disastrous to our economy.

I am very grateful to the Committee that in the light of these arguments, the Committee agreed to delete this provision which would invade the secrecy and confidentiality of bank deposits.

But I have another concern, and that is the transfer of liabilities and worthless assets of the Central Bank to the new Bangko Sentral.

I argued against this. Unfortunately, when we came to vote, we were defeated in our suggestion that there be no transfer of these liabilities to the new Bangko Sentral.

In this situation, Mr. President, I find myself in a bit of a quandary as to how I will vote on this measure. I have previously announced that unless these two concerns of mine were accommodated in the bill, I will vote against it. But the Committee was good enough to accommodate one of them. They removed the provision which will invade the confidentiality and secrecy of bank deposits. But the provision on the transfer of assets and liability is still there. So at least I got 50 percent of my two principal concerns.

But I am happy, however, that aside from that 50 percent of my two principal concerns, this Chamber, with the agreement of the Chairman of the Committee, had agreed to some or to most of my other individual amendments. Among them was the amendment that would require that no person can be appointed to the Monetary Board if he had in the last three years a substantial interest in a private bank.

I inserted this disqualification for fear that if a member of the Monetary Board, particularly the Governor, should have had an interest, substantial interest in a private bank, he might be tempted to use his powers and authority in order to favor his bank and to try to kill the other competing banks. I am grateful to the Committee and this Chamber for the acceptance of this amendment.

Another minor amendment I had proposed that was accepted and approved was to eliminate the power of the Monetary Board to fix the rate of interest that could be charged by banks on deposits that they receive. I believe that is contrary to free enterprise and that would prevent competition among banks to attract depositors by increasing the rates of interest that they would give to the depositors. For this, I am grateful to the Committee and this Chamber.

So, with this, Mr. President, I am now more inclined to vote in favor of this measure.

One thing, however, I would like to state before I conclude is that, with the differences existing between the version approved by the House of Representatives and the version of this bill that we are going to approve tonight, there may be a tough bargaining in the bicameral Conference Committee. I am giving a very painful and agonizing *Yes* to this measure, Mr. President, in the hope and the belief that the Chairman and the Members of our negotiating panel in the bicameral Conference Committee will stand pat on what we have provided in this measure.

There is a very big difference between the provisions of the House bill and our provisions with respect to the transfer and assumption of liabilities of the old Central Bank. Ours, although unacceptable to this Representation — and I would rather had eliminated entirely all provisions on transfer and assumption of liabilities — is less painful to Juan de la Cruz. And it is, as

between the House and the Senate versions, as said already by some others, the lesser evil. I hope that our Conference panel will be able to stand pat and defend this position which is the lesser evil.

But I wish to call one point to the attention of this Chamber and to the Conference Committee. I had said there is no provision in both the House bill and the Senate bill appropriating even a single centavo for the paid-up subscription of the government to the capitalization of the Bangko Sentral. I think we will need another legislation for that, Mr. President. I do not believe that our panels will have the authority to insert a provision that does not exist either in the House bill or in the Senate bill. There had been practices in the past, I know, where the Conference Committee acts as a third member of the Legislative body, a super Congress as it were, and puts into a new measure something that was not debated upon either in the House or in the Senate.

I am going to advance my position, Mr. President, that I will oppose any insertion in this bill in a Conference Committee report that was never discussed either in the House or in the Senate, and that would apply to the provision on appropriation for the paid-up capital to the Bangko Sentral. We will need, I believe, a special appropriation law for this and that should begin from the House of Representatives.

For these considerations, Mr. President, as I said, although it is a little bit painful, difficult and agonizing, I register a vote of *Yes* on this measure.

The Secretary. Senator Webb.

EXPLANATION OF VOTE OF SENATOR WEBB

Senator Webb. Mr. President, as Member of the Committee on Banks, Financial Institutions and Currencies, I find it easier to vote in the affirmative as far as Senate Bill No. 1235 is concerned which creates the Bangko Sentral ng Pilipinas. As Chairman of the Committee on Health, there are certain specific issues that I would like to take up. Let me explain.

For instance, on page 64, letter (a), it says: "The Monetary Board shall have primary responsibility for working out and recommending to Congress creative monetary and financial solutions to retire the Central Bank liabilities and losses at the least cost to the government not later than one (1) year from the date of its organization."

Mr. President, the words "at the least cost" is something that is, certainly, very hard to define. What is my apprehension here if we talk of "at the least cost"? I hope that if and when this is defined, this will not result in realignments of much needed financial resources which should come from social services

departments. This, to my mind, gives undue burden to our people, particularly if we talk of health services.

But, again, on page 65, the first paragraph says: "The Bangko Sentral shall remit fifty percent (50%) of its net profits to the old Central Bank until such time when the latter's net liabilities are liquidated through generally accepted finance mechanisms."

After talking with the Author of the bill and looking at the transcript of records, it was mentioned that somehow there are possibilities of write-offs and restructuring. This, I hope, would be the road that we have to take. However, Mr. President, even with all of these apprehensions that I have made, I feel that my faith and confidence still go to our Chairman, Senator Roco, who has steered the approval of this bill not only in the committee level but particularly on the Floor.

I also join Senator Tolentino as he says that we cannot have anything less than the Senate version.

With all of these, I therefore vote in the affirmative.

EXPLANATION OF VOTE OF SENATOR TATAD

Senator Tatad. Mr. President, I should like to reaffirm my position as cosponsor of Senate Bill No. 1235, and I am honored and pleased to cast an affirmative vote.

I should like to congratulate the distinguished Sponsor and Chairman of the Committee on Banks, Financial Institutions and Currencies, our distinguished Colleague from Bicol and Bohol, for his stamina, his patience, his wit, his masterful handling of the debates. I believe we have just seen one of the finest hours of the Senate.

Mr. President, this is a very important bill, as important as any measure that we shall probably enact in this Congress. It comes at the very critical time in the history of our country. I believe we owe to our people a clarity of understanding that is needed by them, rather than impassioned slogans that obscure that understanding. This is the time when we are called upon to teach the nation what it does not know. This is the time when we have to represent "Mang Pandoy" in this hall, rather than expect him to come here and wrestle with the complicated and difficult provisions of this measure. I believe we have done justice to "Mang Pandoy". We have done justice to "Juan de la Cruz," throughout our deliberations.

Mr. President, we have demanded much of ourselves in the last few days. But I believe it is unfair to suggest that this legislation has been rushed. True, we have given ourselves a timetable. But there has been no cloture, there has been no application of the guillotine. There has been free, vigorous, full-

bodied and robust debate. Every point that every Member had wanted to raise was raised.

We are told we should have gone slower. Mr. President, we are already the slowest in all of Southeast Asia. We are the laggard in the economic race. We can afford to be more serene on many issues, but on the vital issues that we must address, I believe, we are called upon to demand the utmost of ourselves.

This provision of the Constitution has been there since 1987, and I believe it is unfair to suggest that any worthy Member of this Body has remained totally unprepared to grapple with the issue of a Central Monetary Authority. The Committee, to its credit, has worked hard. To the credit of its able and distinguished Chairman, it has worked very hard, and that record will not be very easy to match.

Mr. President, we have heard that we are acting on this measure on the dictates of the IMF. Speaking for myself, I recognize no dictate from anyone other than the dictate that is written in the Constitution, Article XII, Section 20, which says: "Congress shall establish an independent Central Monetary Authority."

The experts tell us that the Central Monetary Authority occurs in the earlier stage of the development of central banks. But I believe it is to the credit of the Sponsors that they have given the benefit of favorable construction to the provision, and so we have here a *Bangko Sentral ng Pilipinas*.

One of the major objections is that the *Bangko Sentral* will now assume P308-billion debts and losses of the Central Bank. Mr. President, with all due respect, I do not read that in any of the provisions.

Strictly speaking, there would seem to be some sense in favor of the argument that the government should assume these obligations, for these debts and losses arose principally because the Central Bank was made to implement certain policies not germane to its monetary duties.

The *Masagana '99* program was intended to increase agricultural productivity, principally rice and corn, and to improve the lot of the countryside. This was supported by the Central Bank through subsidized interest rates and lenient credit terms. The subsidy and bad debts were absorbed by the Central Bank, as we all know.

The alternative might have been for the National Government budget to provide for the necessary funding. If that had been done, taxes would have been raised at the time, and all losses and debts would have been in the books of the Treasury.

Foreign exchange cover was given for crude oil imports, thus minimizing increases in the price of gasoline and other petroleum products, especially during the oil shocks. Since the peso has since depreciated, the Central Bank has been obliged to shoulder the losses on such forward cover.

The alternatives might have been: 1) not to grant such forward cover, in which case the public could have had to bear higher gas prices earlier; or 2) for the subsidy component to be specifically provided by budgetary appropriation. Again, any debts or losses would have been in the books of the Treasury.

Then the Central Bank incurred foreign debt to enable the country to pay for its imports and other foreign exchange payments. With peso depreciation over the years, these loans suffered foreign exchange losses.

The alternatives, Mr. President, might have been a freely floating and, in all likelihood, a greatly depreciating peso since the mid '70s, and at least for a while high inflation rates, or the National Government rather than the Central Bank would have undertaken enormous borrowings. The latter would have meant that debts and losses would now be held by the Treasury.

Then there were a number of transactions whereby the Central Bank gave forward cover to private companies' foreign borrowings, initiated to encourage industrial expansion, and therefore, increase employment and income.

The alternative was to do without such expansion or to have government or rather financial institutions assume the foreign exchange risk, and the Central Bank lent to the Treasury over the years in order to finance national budget deficits.

The alternatives would have been for the Treasury to borrow directly from the public, leading to higher interest rates and/or to raise taxes, the former would have meant, as in the above, that debts and losses would now be held by the Treasury.

Following all these, Mr. President, there would have been some element of fairness if we have decided that some of these debts must be assumed, but we have crafted a bill that leaves it in the hands of the Monetary Board, with the assistance of the Secretary of Finance and the Chairman of the Committee on Banks, Financial Institutions and Currencies of the Senate and the House of Representatives to decide what liabilities would be assumed by, and what assets should be transferred to, the *Bangko Sentral*. I believe this is as fair an arrangement as we can have, under the circumstances.

We have crafted a bill, Mr. President, that creates an independent *Bangko Sentral*. My own fear is that we might have

made this Bangko Sentral too independent of the political leadership that in a time of crisis, while it might be necessary for Executive power to intervene in order to argue for expansionary economic activity in the face of an inflation-fixated Monetary Board, the Executive authority might be powerless to do anything. I was hoping I could find a provision in this bill that would allow for the executive power, in cases of conflict that could not be easily resolved, to assume the authority for a limited period to set monetary policy. That it does not exist, however, does not prevent me from fully supporting this measure.

We have heard so much fear expressed about the presence of the IMF, about the taint that the IMF inflicts on Filipino bankers and financial people who happen to have worked for international organization or who have happened to cross the path of IMF officers and personnel. I believe that we are mature enough to be able to deal with this paranoia. I think in the limited world of finance, it is impossible for a Filipino national who rises to a certain stature in that discipline not to cross path with colleagues from any number of countries having dealings with the IMF.

And after listening to our most learned Colleague from Manila, I am encouraged to hope that whatever the technical defects of this bill, for this is no perfect bill, we would be able to improve on such defects at the Conference Committee, particularly if the Senate panel to that Bicameral Conference Committee should include the distinguished Gentleman from Manila.

Mr. President, once again, I say, I am very pleased to cast an affirmative vote.

Thank you very much.

EXPLANATION OF VOTE OF SENATOR ROCO

Senator Roco. Mr. President, allow me to just merely state that it has been my honor and privilege to be the instrument of the collegial will of this Chamber. It is a real privilege and we are humbled by the honor.

We have achieved, however, a very simple goal — that of vesting in a new Bangko Sentral independence with accountability, independence with responsibility. And it is something I feel, having heard all our Colleagues, that we can take a little pride in. But laws do not necessarily create independence. That will be a matter of character. That will be a human characteristic of those selected to be in the BSP.

Allow me, in closing, Mr. President, to thank all our Colleagues who voted *Yes*. I have taken note of all their apprehensions and reservations, and we shall endeavor to protect and defend their counsel.

Allow me also to say thank you to those who voted *No*. Let me just briefly state, Mr. President, that the concern for rushing may be a little bit harsh because the mandate of the Constitution was 1987. If at all, this is slightly over six years late. In the past Congress, there were so many debates and so many discussions about this, and we feel honored that we were again able to contribute to the completion of the task.

Mr. President, I want to thank particularly the people in the Central Bank: Attorney Fe Barin, Ms. Celia Gonzales and Attorney Regalado, who was formerly with the Central Bank. They have been very patient and very diligent through the 40 or more working group meetings that they were there. And I feel that they should be credited with the effort.

I wanted to mention this particularly because we would also want to thank the Central Bank governor, although he did not get what he wanted and what he requested from the Committee. We feel that we should thank him for the earnest efforts, the various presentations and the various diligent studies that he submitted to the Committee which led the Committee to form the conclusions it has recommended to this Body.

I also want to mention, on a personal note, Mr. President, Atty. Percival O. Flores and Harvey S. Buena of my own staff who, from the beginning and all through the last two nights, I think, have been working together with the Secretariat in completing the draft.

Let me now state, Mr. President, that we will undertake and we will use all our skills as lawyers and the little skills we have learned as legislators to ensure that the will of the Senate is protected, and hope that we can persuade our brothers and Colleagues in the House to see the wisdom of our proposals.

So long as men of goodwill and of good reason can meet, then I do not see any reason to fear that there will be a deadlock. Even then, I think the reminder and the hope that our Colleagues will share the same sentiments we have by the end of the Conference Committee negotiations is not totally baseless. We are, after all, serving the same country, and it is the only country we have.

Thank you, Mr. President, and I guess the Body would expect that I will vote *Yes*.

The Secretary. The Senate President.

Senator Angara. *Yes*.

RESULT OF THE VOTING

The President. The Chair will now announce the result of the voting.

With 19 affirmative votes, three negative votes, and no abstention, Senate Bill No. 1235 is approved on Third Reading.

**MOTION OF SENATOR ROMULO
(Additional Members to the Senate Panel
on Senate Bill No. 1235)**

Senator Romulo. Mr. President, before I move for a suspension of the session, may I just move that the following be added to the Senate panel: Senators Lina, Alvarez and Aquino.

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

SUSPENSION OF THE SESSION

Senator Romulo. Mr. President, I move for a two-minute suspension of the session, so we can congratulate Senator Roco and greet the Central Bank officials whom he had cited.

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

It was 7:08 p.m.

RESUMPTION OF THE SESSION

At 7:13 p.m., the session was resumed.

The President. The session is resumed.

Senator Romulo. Mr. President, may we remind the Members of the Senate panel to the Central Bank Bicameral Conference Committee that there will be a meeting of the Senate and the House panels at 12:30 p.m. tomorrow at Casa Marcos, Greenhills, Quezon City.

May we remind also the Members of the Senate panel on the cigarette tax measure that there is a meeting, which is a continuation of the Bicameral Conference Committee, at seven o'clock this evening at the Senators' Lounge, Manila Hotel.

Mr. President, after the first meeting of the Senate and the House panel on the Central Bank Act at 12:30 p.m. tomorrow at Casa Marcos, Greenhills, Quezon City, the whole day on Wednesday, they will resume the meeting at 9 a.m. at Room 410. We hope that both panels can reconcile the disagreeing provisions.

Mr. President, may I now ask the Secretary to read the additional Reference of Business.

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

TENTH ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1280, entitled

AN ACT CREATING THE SCIENCE AND TECHNOLOGY SCHOLARSHIP FUND, AND FOR OTHER PURPOSES.

Introduced by Senator Alvarez.

The President. Referred to the Committees on Education, Arts and Culture; and Science and Technology.

The Secretary. Senate Bill No. 1281, entitled

AN ACT CREATING THE NATIONAL LIVELIHOOD DEVELOPMENT COUNCIL THEREBY INSTITUTIONALIZING THE LIVELIHOOD MOVEMENT IN THE PHILIPPINES.

Introduced by Senator Alvarez.

The President. Referred to the Committee on Social Justice, Welfare and Development.

RESOLUTION

The Secretary. Proposed Senate Resolution No. 482, entitled

RESOLUTION EXTENDING TO NOT LATER THAN AUGUST 10, 1993 THE AUTHORITY OF SENATE PRESIDENT EDGARDO J. ANGARA, AS GRANTED IN SENATE RESOLUTION NO. 31, TO REORGANIZE ALL EXISTING COMMITTEES OF THE SENATE.

Introduced by Senator Romulo.

The President. Referred to the Committee on Rules.

The Secretary. Proposed Senate Resolution No. 483, entitled

RESOLUTION DECLARING VACANT THE OFFICE OF THE SENATE SERGEANT-AT-ARMS.

Introduced by Senator Romulo.

The President. Referred to the Committee on Rules.

June 10, 1993

Thursday, June 10, 1993

RECORD OF THE SENATE

Conf. Com. Report
on S.B. No. 1235/H.B. No. 7037

of removals of cigarette paper and the printing of fusion stamps shall be included in the General Appropriations Act.

SEC. 7. Separability Clause. - If any provision of this Act is subsequently declared unconstitutional, the validity of the remaining provisions hereof shall remain in full force and effect.

SEC. 8. Repealing Clause. - All laws, decrees, executive orders, rules and regulations, and other issuances inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 9. Effectivity Clause. - This Act shall take effect after fifteen (15) days from its publication in the Official Gazette or in at least two (2) national newspapers of general circulation whichever comes earlier.

Approved.

Senator Romulo. Mr. President.

The President. The Majority Leader is recognized.

CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 1235/HOUSE BILL NO. 7037
(The New Central Bank Act)

Senator Romulo. I move that we now consider the Bicameral Committee Report on the disagreeing provisions of House Bill No. 7037 and Senate Bill No. 1235.

I ask that the distinguished Sponsor and Chairman of the Committee, Senator Roco, be recognized.

The President. Senator Roco is recognized.

SPONSORSHIP SPEECH OF SENATOR ROCO

Senator Roco. Thank you, Mr. President.

We are pleased to submit this Conference Committee Report for the consideration and approval of this Chamber, and may we just highlight some portions.

When we started the Conference, both panels took the attitude of helping each other draft or redraft the bill, and that avoided unnecessary discussions as we thought, considering the importance of the bill, that both panels should not think in terms of their versions. It was, however, agreed that the Senate version shall be the base for discussion.

Statistically, Mr. President, 107 sections out of 139 were adopted from the Senate version. There were only 13 Sections

that were taken from the House version. But because of the cross-pollination between the House and the Senate, as we were discussing this bill, there were really great coincidence in the basic text of the two bills from Sections 1 to 126 in the case of the original bill of the Senate and Sections 1 to 131 in the case of the House version.

May we just call attention, Mr. President, to certain highlights of the bill.

No. 1, Mr. President, our Colleagues will recall, the P10 billion will be the paid-in capital of the new Bangko Sentral ng Pilipinas. The P10 billion will not be in cash. It will not be released by the National Government. What will happen, Mr. President, is that the new Bangko Sentral will select to absorb some, for instance, P150 billion in assets as against P140 billion in liabilities. So that from the beginning, there shall be a paid-in of P10 billion without necessarily any outflow of cash from the National Government.

No. 2, Mr. President, the Governor shall be subject to the confirmation by the Commission on Appointments even as both panels were conscious that this may be subject to constitutional question.

No. 3, Mr. President, all Monetary Board members shall be full time. The conflict of interest provisions are very clear and this basically came from the Senate provision. In the event that there is a conflict of interest, the Board Member concerned shall disclose the conflict of interest and retire from the meeting when the matter is taken up. On top of that, the decision, whatever the decision on the matter may be, shall be made public. And as the debates would tell us, Mr. President, being made public may require simply posting in the bulletin board of the Central Bank or other publications what the Bangko Sentral may undertake in the future.

No. 4, Mr. President, we thought we would highlight this only because of the extraordinary diligence that we require of Monetary Board Members which strengthens the concept of the fiduciary obligations of Monetary Board Members, since they are our watchdogs over the banking sector.

No. 5, Mr. President — and this is specifically stated especially for the amendments of Senator Tolentino — in the bill, as finally agreed upon by the two panels, bank secrecy is strengthened. There is an expressed repeal of Presidential Decree No. 1792 which allowed the old Central Bank to look into individual depositor's accounts.

No. 6, Mr. President, certain things are phased out. The regulatory functions by the CB over finance companies will be phased out in five years. The quasi-fiscal or fiscal agency functions

shall be phased out in five years. The tax exemptions of the Central Bank shall also be phased out in five years. The Bangko Sentral will only enjoy this for a period of five years.

There is also, as we have underscored before, Mr. President, the clear reporting requirements to Congress of the Philippines.

No. 7, Mr. President, is the suspense account creating the Monetary Adjustment Account where they hid some P50 billion losses and the Exchange Stabilization Adjustment Account where they hid some P100 billion are now deleted.

In other words, Mr. President, the new Bangko Sentral will have no hidden pockets in which to put losses. If there are losses, they will have to report it immediately as losses or as expenses, as the case may be.

I will skip the nitty-gritty, Mr. President, on the Central Banking functions, because they were mostly untouched by the Conference Committee.

Let me now call attention, Mr. President, to Section 132. In the Implementing Details, the Bangko Sentral shall be made operational by the occurrence of two acts:

Number 1, "the President shall constitute the Monetary Board by appointing the members thereof within sixty (60) days from the effectivity of the Act"

So that if this becomes effective, let us say, June 30, by August 30, the President must constitute the Monetary Board.

Number 2, Mr. President, within 90 days thereafter, the transfer of assets and liabilities from the old Central Bank to the Bangko Sentral shall then be completed.

Section 133 which used to be Section 127 of our original bill, Mr. President, was modified in two small instances, and I invite our Colleagues to kindly look at Section 133 to see and to notice that there is hardly any departure from our original recommendations, considering the speeches during the voting which the Committee took as practical instructions that hardly any modification will be allowed by this Chamber. We adhered faithfully to the instruction.

The first paragraph is totally the same. We did add one sentence which merely states — and this comes from the House version — after the first paragraph: "The Committee," — referring to the Committee of the Monetary Board — "the Secretary of Finance, the Secretary of Budget and Management and the Chairmen of the Congressional Committees, shall complete its work within ninety (90) days from the constitution of the Monetary

Board, submitting a comprehensive report with all its findings and justification." Our Colleagues in the House felt this phrase "findings and justification" should be seen in the final version. And we conceded.

The rest of the sections, Mr. President, are the same, except that we put up the original Section (d) and we made it (b). This section now is again completely the Senate version. It says: "The Bangko Sentral shall remit seventy-five percent (75%)" — it was modified on the Floor to 50 percent, but our Colleagues in the House insisted on 75 percent, since that was the original version, as well of the Senate, our Committee yielded — "of its net profits to a special deposit account (sinking fund)" — this is taken from the House, the concept of sinking fund — "until such time as the net liabilities of the Central Bank" — these are all now Senate version — "shall have been liquidated through a generally accepted finance mechanisms..."

Our original version ended with the terms "generally accepted finance mechanisms," but at the instance of our Colleagues from the House, we made an enumeration that is not delimiting, but are demonstrative. So that we added the terms "such as but not limited to write-offs, setoffs, condonation, collections, reappraisal, revaluation and bond issuance by the National Government, or to the National Government as dividends." This is an addition, Mr. President.

May I explain a little, Mr. President. Effectively, what this Section is saying is that, the 75 percent sinking fund which was originally visualized, even in the House version, to be purely for the payment of liabilities of the old Central Bank will now be put in a sinking fund and may, in fact, be used by the National Government, if it is declared out as dividends. There is a greater flexibility. While even in our version it was visualized that this will be purely for payment of liabilities, there may be instances, Mr. President, when the liability may not be maturing for that period. And so, there might be dividends for the National Government.

The enumeration of generally accepted finance mechanisms is not intended to be complete or exclusive, Mr. President. It was merely intended to show the known accepted mechanisms that the Committee wanted to put here. Write-offs, for instance, of liabilities that went into the MAA may be done; setoffs against deposits of the National Government that do not earn interest as against certain liabilities may also be considered by the Committee; bond issuance may be considered.

In the view of our Committee, Mr. President, eventually when the Committee works out all these liabilities, the liability that will be seen as a possible exposure by the National Government will be much less than the P300 billion originally asked for.

Letter C, Mr. President, talks of the assets and liabilities to be transferred to make the Bangko Sentral viable. By addition of Senator Tolentino, this is where we provided that the assets shall exceed the liabilities as certified by the Commission on Audit by an initial amount of P10 billion. We will notice that we transmitted the same meaning in the original draft by using the words "the liabilities shall not exceed the assets." Here, the wordings were made positive. The assets shall exceed the liabilities. That takes care of the initial paid-in capital, Mr. President.

Letter D, Mr. President, stresses what the Bangko Sentral cannot avoid because liabilities arising from the circulation of money and coins must be answered for by the Bangko Sentral. The others are not too significant.

In view of the situation, Mr. President, where 107 sections of the Senate version out of 139 have been adopted almost *in toto*, and there are 13 new provisions from the House, our Committee feels that we are justified in seeking unanimous approval of the Committee Report.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, I move with the Sponsor that we unanimously approve the Bicameral Conference Committee Report on the new Central Bank Act.

Senator Tañada. Mr. President.

Senator Coseteng. Mr. President.

The President. Senator Tañada is recognized; then Senator Coseteng.

Senator Tañada. Mr. President, will the distinguished Sponsor yield for a few clarificatory questions?

Senator Roco. Happily, Mr. President.

Senator Tañada. Mr. President, I recall that during the Gentleman's sponsorship speech and during our deliberations on the Floor, the Gentleman had occasion to mention that he is not in favor of the proposal contained in the House of Representatives' version that provided for the issuance of a bond in the amount of P25 billion on which we would be paying yearly a certain amount by way of interest.

My question is: Has that proposal not been, in effect, incorporated now in the consolidated measure we are about to approve?

Senator Roco. No, Mr. President. The House version specifically stated a bond payable over 25 years, a bond or effectively a promissory note, for the face value of P300 billion.

That commitment was so clear, Mr. President, that the Senate Committee evidently could not accept that.

In other words, the categorical liability that was being absorbed by the National Government under the House version is no longer here.

The Committee that will now select the assets and liabilities, if worked out according to the common vision of the Bicameral Conference Committee, the liabilities that will be absorbed, if at all, will be net of write-offs, will be net of set offs, will be net maybe even of condonation which, if the Gentleman will recall, was a concept that was rejected, I think, by our Colleagues in the House, but is now included as a policy direction in the Conference Committee Report. It will be net of reappraisals. Reappraisals, meaning to say, Mr. President, or revaluations, the assets, like the buildings of the Central Bank, can be carried on not in the value at which they were built, but in the value at which they may find themselves in now. So we may be talking of an increase from P1.5 billion to maybe P7 billion.

Just to demonstrate, Mr. President. When the Central Bank buildings or the NEDA buildings have been put up, they may have been worth P1 billion. I am sure if we put up the same buildings now, we would not be able to build the same. So that is the concept of the valuation.

So, the net liabilities will definitely be much lower. Does it mean we will absorb all? Under the law defining bonds, Mr. President, we do not have to absorb all. The issuance of bonds is covered by another law, and we leave that other law untouched. Whatever the requirements there may be will be accomplished. If it requires outflow of money from the National Government, then evidently, congressional action must be taken.

Thus, we were faithful to the spirit and direction, Mr. President, of the Senate version. In fact, the Gentleman — although he put on record that he really has to dissent and it was already on record as a *No* — was so kind as to help us even in some of the phraseology so that we can better project the real intention of the Senate.

Senator Tañada. Thank you, Mr. President.

The Gentleman has mentioned that among the specific finance mechanisms that can be availed of by the Bangko Sentral is that of write-off. So this would mean Bangko Sentral is deciding to write off or fight off its liabilities. In giving this option to the Bangko Sentral, particularly this matter of writing off its liabilities, what would happen to the National Government deposits with the Central Bank?

Senator Roco. Some losses, Mr. President, do not have a collecting creditor. In other words, in the case of liabilities, there

are some liabilities where there is an actual banker saying: "I lent you the money, so pay me." But many or some of the liabilities do not actually have a collecting creditor and, therefore, in our view, some of them can be written off without any effect, I mean, nobody is really collecting.

And maybe it is a good point, Mr. President. Let me also explain the CB Board of Liquidators. In the original Committee Report of the Senate, we talked of two tiers: the Bangko Sentral, which will now conduct monetary policy and monitor price stability, but we maintain the old Central Bank so that all the documents, all the records of their liabilities and losses can be pursued in the old Central Bank as a separate, existing juridical entity. Because of the combined wisdom and experience of the two panels, we modified that a bit. It is not the old Central Bank. The old Central Bank shall continue existing as a CB Board of Liquidators. The records will be preserved.

The Gentleman, the Minority Leader, the Majority Leader, Senator Guingona, and those who expressed interest in pursuing these liabilities to their roots can still do so with the CB Board of Liquidators. But because of the two-tiers, even as the CB Board of Liquidators will continue trying to liquidate and dispose of assets and liquidate liabilities, the existence of that secondary body will not hinder the operations of the Bangko Sentral.

The Bangko Sentral shall have a clean balance sheet. The Bangko Sentral, in fact, shall have positive net worth by P10 billion on Day One, and we anticipate that if the Department of Finance and the Department of Budget and Management can agree with the new Monetary Board, they will even get more money — up to P50 billion — if that is necessary.

So these two tiers, Mr. President, achieve our desire for greater accountability, not only of the new Bangko Sentral, but accountability of the old Central Bank.

Senator Tañada. So in the matter of the write-off, this will, in no way, refer to National Government deposits with the Central Bank. In other words, can the Bangko Sentral decide to write off the National Government deposits in its possession?

Senator Roco. No, Mr. President. If there are, let us say, items carried as an obligation by the old Central Bank, assuming they say "Okay, we will now write that off," the Monetary Board can say "Write it off. Do not pay it anymore. Do not look for money to pay for it. Just say that one is considered lost. Forget it. We will never recover."

Senator Tañada. If I am not mistaken, Mr. President, we have about P42 billion —

Senator Roco. Forty-two billion pesos. This was the information given to us by Senator Guingona.

Senator Tañada. — presently deposited with the Central Bank, and yet it does not earn any interest at all whatsoever.

Senator Roco. Yes, Mr. President.

Senator Tañada. Under this measure, can the Bangko Sentral decide to write that off?

Senator Roco. No, Mr. President, because the National Government owns that. But what can happen is, if that P42 billion is not earning interest and it is captive money there, in the negotiations between the new Monetary Board and the Department of Finance and the Department of Budget and Management, they may agree that part of that P42 billion or all of it can be converted into paid-in capital for the Bangko Sentral.

So there must be participation by the National Government. The National Government, even if we will never agree to that, if we need the money, but it has been lying there, unused, not earning interest, we may want to convert it to capital of the new Bangko Sentral, so that it is useful to the Bangko Sentral. And since we will be receiving, after the transitory period, 50 percent of the profit, that is good. And during the transitory period, 75 percent will go to sinking fund to pay for old liabilities and to pay for dividends of the National Government, we do have a net benefit.

Senator Tañada. Mr. President, in our deliberations it was brought out that the Bangko Sentral can go to Congress and seek whatever assistance or appropriation it may need from Congress. If its profits would not be sufficient to answer for the liabilities it may wish to liquidate, there was an expressed provision in our Senate version that the Bangko Sentral could go to Congress for this purpose. Now, that provision was taken out, Mr. President.

Senator Roco. I am sorry. Which provision is the Gentleman referring to, Mr. President?

Senator Tañada. In the original Senate version, there was a provision there which stated that the Bangko Sentral could go to Congress to ask for assistance or for any appropriation that it may need in liquidating some of its liabilities should its profits be not sufficient for the year. Now, that has been taken out, Mr. President.

Senator Roco. That has been taken out, Mr. President, because of the observation that it may lead others to think that the National Government will have to absorb the liabilities. So as to allay all apprehensions and to remove any indication that Congress may act favorably on such request, that provision was consciously deleted, in fact, by the Senate panel.

Senator Tañada. Yes. But it came out clearly during the debate that this being taken out does not stop the Bangko Sentral

from still going to Congress to ask for that kind of assistance or appropriation.

Senator Roco. It does not stop anybody from asking Congress for help.

Senator Tañada. What if it does, Mr. President, and Congress should decide that it is not agreeable to give the appropriation that the Bangko Sentral is asking?

Senator Roco. Then the Monetary Board will have to restructure and find other ways of solving that problem.

Senator Tañada. And what would be these other ways, Mr. President?

Senator Roco. It can be condonation. It can be just collecting from those who have owed us. It can be reappraisal, as I mentioned. It can be setoffs. If the Bangko Sentral has liabilities to the National Government and the National Government has also liabilities to them, and all the elements of compensation occur, maybe we can effect legal setoff.

Senator Tañada. Can it also be none of those, Mr. President, and —

Senator Roco. It can be bonds.

Senator Tañada. — just abide by the automatic appropriation law?

Senator Roco. No, Mr. President, not in my view, unless, of course, the bonds issued and approved specifically say that it goes under automatic appropriation.

Senator Tañada. Because there was that positive characteristic of that provision we have deleted in the Senate version, Mr. President, which stated that the Bangko Sentral could go to Congress and ask for appropriation in whatever amount it may so desire, and Congress would then decide whether to approve or to reject such request for appropriation.

Senator Roco. That is correct, Mr. President.

Senator Tañada. In that situation, as the distinguished Sponsor himself had also brought out, Mr. President, it would imply that the automatic appropriation law would no longer be made to apply because Congress would have the discretion in granting or refusing the request for appropriation by the Bangko Sentral.

Senator Roco. That is the point I raised, Mr. President, in the discussion of the Senate panel itself, but it was the Gentleman, in

fact, who mentioned that the overall deletion will be better for the Senate version because it shows that there is no desire on the part even of the Senate to listen to such request. But it was a trade-off. We cannot maintain that because it was the Gentleman's position that it may indicate we are willing to listen to such requests.

Senator Tañada. So, we cannot anymore claim, Mr. President, that there is an implied amendment, if not repeal, of the automatic appropriation law.

Senator Roco. Not in terms of the words, because it was at the instance of the Gentleman that this was deleted. But it was the clear intention in the debates, Mr. President, that any bond, if issued, if it requires release of public funds, shall be subject to congressional approval.

Senator Tañada. Now, regarding the flotation of bonds by the National Government, what will be the impact of this as far as the government's fiscal management tools are concerned? Would this not, in a way, impair the independence of the Bangko Sentral that we very much wish to establish?

Senator Roco. It will establish accountability, Mr. President. Independence was not a goal desired in a manner that the Bangko Sentral shall be independent even of the Republic or of the Congress or of the Filipino people. It was precisely because of the consciousness that it must be independence with responsibility and accountability that the bill was put together.

Senator Tañada. Under this mechanism, Mr. President, can we not say that there would, in effect, be a transfer of liabilities to the National Government?

Senator Roco. I am sorry, I missed that.

Senator Tañada. Under this mechanism of floating of bonds or issuance of bonds, can we not say that, by virtue of this mechanism, it is now clear that there will be, if there is none yet at this time, a transfer of liabilities from the Central Bank to the National Government?

Senator Roco. There is none. As of right now, there is none. The first transfer will show positive net worth for the Bangko Sentral. In fact, in the specific example given, the Bangko Sentral must absorb liabilities for currencies and notes, and that will be P120 billion, and maybe another P20 billion of other liabilities that are standards that must be answered for in the ordinary course by central banking function. But P150 billion worth of assets will be transferred, so that the net worth shall be P10 billion. Therefore, there will be P10 billion paid-in capital by virtue of just the transfer of assets and liabilities. All the rest will have to remain with the CB, which will now continue to exist only as the CB Board of Liquidators. That will be subject of the study of the Special Committee over the next five months.

Senator Tañada. Thank you very much for answering my questions, Mr. President.

Senator Roco. Thank you very much also to the Gentleman.

The President. Senator Coseteng is recognized, then Senator Lina.

Senator Coseteng. Mr. President, just to reiterate my negative vote for the bill under consideration. Thank you.

The President. Senator Lina is recognized.

Senator Lina. Just a few clarificatory questions, Mr. President.

Senator Roco. Gladly, Mr. President.

Senator Lina. In relation to Section 133, particularly on paragraph (c), does this mean that the initial amount of P10 billion will no longer be sourced from the National Government?

Senator Roco. That is correct, Mr. President. That is really part of the public sector wealth.

Senator Lina. Yes. It looks good. I must say that this is a very ingenious way of ensuring that there will be no cash out on the part of the National Government. How about the initial operating capital? Will there be liquid asset immediately within the period of time that the new Central Monetary Authority will begin to commence?

Senator Roco. That P10 billion will be real P10 billion.

Senator Lina. In actuality, the Bicameral Conference Committee looked into this very practical question: Will there be a liquid asset amounting to P10 billion, or enough liquid assets so that at the start of the operation there will be sufficient cash to go around?

Senator Roco. During the debates, Mr. President, this was also mentioned as the creative accounting mechanism for giving liquid assets to the Bangko Sentral. But it was fortunate that in the Conference Committee, it was, in fact, articulated and verbalized.

Senator Lina. Thank you for that information.

The other clarificatory question, Mr. President, is: Will this principle be adopted all throughout the existence of the new CMA vis-a-vis the old Central Bank? That the liabilities that will be transferred to the CMA shall always be less than the assets that are transferred?

Senator Roco. Mr. President, I think we can do it only once. We hid it under the terms creative accounting before. But we can

do it only once, for the simple reason that many of the assets are what we refer to as "ampaw assets," like the expenses under monetary adjustments which, really, should have been just shrugged off as expenditures. But they were hidden as purported assets when, in reality, they were not.

So we can do it only once. After that, they will have to clean up the books of the Central Bank through the Central Bank Board of Liquidators.

Senator Lina. Yes. But there will be a period of time for inventory of assets and even liabilities.

Senator Roco. Yes, Mr. President.

Senator Lina. So that in the process, my concern is, if the principle that assets should always be higher compared to the liabilities, that will be transferred to the Central Monetary Authority. Will there be a situation where liabilities will outstrip the assets that will be transferred to the CMA?

Senator Roco. Since it will remain with the old Central Bank, I think when we transfer more assets than liabilities, initially, they will have more liabilities. The old Central Bank will have more liabilities than assets at that point. It will not balance.

Senator Lina. Precisely. As we go along, will that principle be observed?

Senator Roco. No, Mr. President, because the moment we transfer more assets to the Bangko Sentral, there will be less assets in the old Central Bank. So, we will have a situation in the old Central Bank where the liabilities exceed the assets.

Senator Lina. No, I am referring to the CMA. When we transfer assets to the CMA, will there be an occasion when liabilities that are transferred will be more than the assets?

Senator Roco. I hope not, Mr. President. After giving them liquid assets, and then even, maybe, P40 billion, if that can be worked out, if they are non-earning deposits really, then it will be criminal if they get into that situation.

Senator Lina. I just wanted to be assured about that. And there is this Committee that will look into the final liquidation of the old Central Bank, determining which assets and which liabilities will be transferred. In the determination of which liabilities will be transferred, the principles to be observed are (1) that liabilities can be transferred to the Central Monetary Authority; and (2) that assets should always be higher compared to the justifiable liabilities in the transfer of assets and liabilities to the Central Monetary Authority.

Senator Roco. Yes. I have not worked out that operational detail, Mr. President. But in terms of the guidelines, the new Monetary Board will have to get into the nitty-gritty.

Senator Lina. I just wanted to put that into the *Record* so that when we review the records of the proceedings on this measure, then these principles as part of the legislative intent are already included and can serve as guidelines for the Monetary Board.

Thank you very much, Mr. President.

The President. The Majority Leader is recognized.

Senator Romulo. Mr. President, I reiterate the motion for the approval of the bicameral Conference Committee Report on the new Central Bank Act.

The President. Is there any objection?

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized.

Senator Maceda. Mr. President, I join Senators Tafiada and Coseteng in voting against this measure because, to me, it is still a surrender to the International Monetary Fund, as symbolized by the fact that one small concession to nationalism was not even upheld by the Conference Committee. In spite of the fact that it states "sampung piso, dalawampung piso, limampung piso, isandaang piso, limang daang piso", our amendment to recognize that the unit of currency is "piso" was disapproved by the Conference Committee and it has been reverted back to "peso."

I would just like to put on record that in this particular session to approve these two important bills, only 15 Senators found it important enough to attend.

APPROVAL OF CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 1235/HOUSE BILL NO. 7037

The President. As there is an objection, the Chair will call for a division of the House.

As many as are in favor of the Bicameral Conference Committee Report will please say *Aye*. [*Several Senators: Aye*] As many as are against will please say *Nay*. [*Few Senators: Nay*] The *Ayes* have it. The Bicameral Conference Committee Report on the new Central Bank Act is hereby approved.

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. 7037, entitled

AN ACT ESTABLISHING AN INDEPENDENT
CENTRAL MONETARY AUTHORITY,
DEFINING ITS RESPONSIBILITIES AND
POWERS, AND FOR OTHER PURPOSES

and Senate Bill No. 1235, entitled

THE NEW CENTRAL BANK ACT,

having met, and after full and free conference, has agreed to recommend and does hereby recommend to their respective Houses, that House Bill No. 7037, in consolidation with Senate Bill No. 1235, 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.) RAUL S. ROCO

(Sgd.) BLAS F. OPLE

(Sgd.) TEOFISTO T. GUINGONA, JR.
"I dissent."

(Sgd.) WIGBERTO E. TAÑADA

(Sgd.) ARTURO M. TOLENTINO

(Sgd.) HEHERSON T. ALVAREZ

(Sgd.) JOSE D. LINA, JR.

AGAPITO A. AQUINO

CONFEREES ON THE PART OF
THE HOUSE OF REPRESENTATIVES

(Sgd.) RONALDO B. ZAMORA

(Sgd.) JOSE CARLOS V. LACSON

(Sgd.) FELICITO C. PAYUMO

(Sgd.) EXEQUIEL B. JAVIER

(Sgd.) ROLANDO R. ANDAYA

(Sgd.) FELICIANO R. BELMONTE

SALVADOR H. ESCUDERO III

(Sgd.) RICARDO C. SILVERIO

(Sgd.) JAIME C. LOPEZ

ANTONIO M. DIAZ

(Sgd.) EDCEL C. LAGMAN

(Sgd.) MARGARITO B. TEVES

(Sgd.) JOKER P. ARROYO
"I vote no."

Senator Aquino. Mr. President.

The President. Senator Aquino is recognized.

MOTION OF SENATOR AQUINO
(Referral of Senate Bill Nos. 628, 771 and 738
to the Cooperatives Committee)

Senator Aquino. Mr. President, before the creation of the Committee on Cooperatives, there were three bills regarding cooperatives that were referred to different committees. I have requested the Chairmen to allow me to get them back or give them back to the Committee on Cooperatives now that it has been organized.

So I move that the following bills be referred to the Committee on Cooperatives as the lead Committee: Senate Bill No. 628, An Act Granting Mandatory Wage Deduction of Privileges to Cooperatives; Senate Bill No. 771, Inclusion of Cooperatives in the Curricula for Elementary and Secondary Schools; and Senate Bill No. 738, An Act Establishing a Fund Known as the Transport Cooperative Loan Fund. The Chairmen have agreed, Mr. President.

Senator Romulo. Mr. President, I understand there are no objections from the other committees concerned. Therefore, I so move that the manifestation be made official.

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

Senator Romulo. Since we are through with the Business for the day, may we now proceed with the final resolution for the *sine die* session.

The President. Please proceed.

CONSIDERATION OF PROPOSED SENATE
RESOLUTION NO. 485
(Reading and Approval of the June 10, 1993 Journal)

Senator Romulo. Mr. President, I move that we consider Proposed Senate Resolution No. 485.

The President. Consideration of Proposed Senate Resolution No. 485 is now in order.

With the permission of the Body, the Secretary will read only the title of the Resolution, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Proposed Senate Resolution No. 485, entitled
RESOLUTION DECLARING THE READING AND
APPROVAL OF THE *JOURNAL* OF TODAY'S
SESSION JUNE 10, 1993.

The following is the full text of Proposed Senate Resolution No. 485:

RESOLVED, That the *Journal of the Senate* of today's session, June 10, 1993, be declared, as it is hereby declared, as read and approved.

ADOPTION OF PROPOSED SENATE
RESOLUTION NO. 485

Senator Romulo. Mr. President, I move that we adopt Proposed Senate Resolution No. 485.

The President. Is there any objection? [*Silence*] Hearing none, Proposed Senate Resolution No. 485 is hereby adopted.

CONSIDERATION OF PROPOSED SENATE
RESOLUTION NO. 486
(Printing of the *Journal* and *Record of the Senate*)

Senator Romulo. Mr. President, I move that we consider Proposed Senate Resolution No. 486.

The President. Consideration of Proposed Senate Resolution No. 486 is now in order.

With the permission of the Body, the Secretary will read only the title of the resolution, without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Proposed Senate Resolution No. 486, entitled
RESOLUTION AUTHORIZING THE PRINTING AND
DISTRIBUTION OF FIVE HUNDRED COPIES
EACH OF THE *JOURNAL* AND THE *RECORD OF
THE SENATE* OF THE FIRST REGULAR
SESSION OF THE NINTH CONGRESS OF THE
PHILIPPINES.