

RECORD OF THE SENATE

MONDAY, JUNE 5, 1989

OPENING OF THE SESSION

At 10:24 a.m., the Honorable Jovito R. Salonga, President of the Senate, called the session to order.

The President. Binubuksan ang pulong ng Senado.

NATIONAL ANTHEM

Ang Pambansang Awit at ang *Pilipinas* ang iparirinig sa atin ng G.S.I.S. Quezon City Singing Group. At pagkatapos ay pangungunahan tayo sa panalangin ni Senador Agapito "Butz" A. Aquino.

Everybody rose for the singing of the National Anthem and remained standing for the opening prayer.

PRAYER

Senator Aquino.

Lord, we pray for all the victims in China's version of people power. May all the bitterness and sufferings terminate, and efforts towards reconciliation and freedom begin.

Amen.

ROLL CALL

The President. Babasahin ng Kalihim ang talaan ng mga Senador.

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino.....	Present
Senator Juan Ponce Enrile	Present
Senator Joseph Ejercito Estrada.....	Present
Senator Neptali A. Gonzales.....	Present
Senator Teofisto T. Guingona, Jr.....	Present
Senator Ernesto F. Herrera.....	Present
Senator Sotero H. Laurel.....	**
Senator Jose D. Lina, Jr.	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado.....	Present
Senator John H. Osmeña	Present
Senator Vicente T. Paterno	Present

Senator Aquilino Q. Pimentel, Jr.	***
Senator Santanina T. Rasul	Present
Senator Alberto G. Romulo	Present
Senator Rene A. V. Saguisag.....	***
Senator Leticia Ramos Shahani	**
Senator Mamintal Abdul J. Tamano	**
Senator Wigberto E. Tañada	Present
Senator Victor S. Ziga	*
The President	Present

The President. Labimpito ang mga Senador na dumalo sa ating pagpupulong; mayroon tayong korum.

THE JOURNAL

Senator Mercado. Ginoong Pangulo, hinihingi ko na huwag nang basahin ang *Journal* ng nakalipas na sesyon at ito ay ituring na sinasang-ayunan.

The President. Mayroon po bang tutol? [*Silence*] Pinagtibay.

The Secretary will now proceed with the reading of the Order of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1178, entitled

AN ACT AMENDING SECTION 6 OF REPUBLIC ACT NUMBERED SIXTY-SEVEN HUNDRED TWENTY-FOUR RELATING TO THE COMPOSITION OF THE FOREIGN DEBT COUNCIL.

Introduced by Senators Romulo, Tañada, and Herrera.

The President. Referred to the Committees on Economic Affairs; Finance and Ways and Means.

The Secretary. Senate Bill No. 1179, entitled

AN ACT ESTABLISHING TOURIST INFORMATION CENTERS IN CHARTERED CITIES AND PROVINCIAL CAPITALS, AND FOR OTHER PURPOSES.

Introduced by Senators Romulo and Herrera.

**On official mission

* Arrived after the roll call

*** On official mission but appeared after the roll call

Senator Enrile. May it not be better, Mr. President, for us to make a meaningful work here to really hold a public hearing, and call these affected offices in order to hear their views so that we can really craft a more effective law rather than delegate the power to the bureaucracy concerned without determining the length of time during which the action to be taken would be effected?

Senator Guingona. If we have the measure of time, perhaps, that would be good. But, considering that we have constraints of time and some of these offices are in the provinces, some of these corporations are outside of Manila, I think it would be best to leave it to the interagency heads concerned to craft their own. After all, they will not abuse it because they are under the jurisdiction of the Ombudsman.

Senator Enrile. But, what I am concerned about, Mr. President, is the fact that violations of this law would mean imprisonment of certain people and it might really unduly burden members of the bureaucracy who may want to comply with the law; but, as a practical matter and physically, they could not do so and yet, they are exposed to possible prosecution because the policy condition under which the law is being suggested to be crafted by Congress has not been well defined and established in the statute itself.

Senator Guingona. Yes, Mr. President. That is why we have set the policies and the standards clearly so that the rules and regulations will be reasonable; for, after all, if they are unreasonable, then they can be challenged.

Senator Enrile. Anyway, I am just making those suggestions, Mr. President, in the spirit of trying to help improve the bill.

Senator Guingona. Thank you.

The President. The Chair would like to address a couple of questions to the Sponsor.

The Chair notices that in Republic Act No. 6713, the Code of Conduct and Ethical Standards, there is a provision bearing on the same matter which the Sponsor talked about. And it reads in Section 5, "Duties of Public Officials and Employees" - Section 5 (a) and (c) are probably relevant:

"In the performance of their duties, all public officials and employees are under obligation to:

(a) *Act promptly on letters and requests.* - All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the

action taken on the request." Then, under paragraph (c), "*Process documents and papers expeditiously.*" The law says:

"All official papers and documents must be processed and completed within a reasonable time from the preparation thereof".

Subsequently, the Civil Service Commission implemented this Code. And they have just issued their implementing rules entitled "Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees". The Chair would like to draw the attention of the Sponsor to the implementing rules found in this green pamphlet. I wonder whether the Sponsor has taken note of this implementing rules of the Civil Service Commission.

Senator Guingona. Yes, Mr. President. When we originally filed this bill, this had not yet been approved.

The President. Yes.

Senator Guingona. However, even after its approval, we consider this bill as a complement, or a supplement, to the existing law and the rules of the Civil Service Commission, for the Civil Service Commission is very general, Mr. President, on 15, days and it is on letters, requests. Therefore, this one supplements it and gives it more teeth.

The President. With respect to the provision in the law talking about expeditious processing of papers and documents, the implementing rules of the Civil Service Commission read as follows. This is in Section IV, Rule 6.

"All official papers and documents must be processed and completed within a reasonable time from the preparation thereof. Reasonable time shall be determined in accordance with the following rules:

(a) When the law or the applicable rule issued in accordance therewith prescribes a period within which a decision is to be rendered or an action taken, the same shall be followed;

(b) When the law or the applicable rule issued in accordance therewith does not prescribe a period, the head of department, office or agency, shall issue rules and regulations prescribing, among other things, what is reasonable time, taking into account the following factors:

(1) Nature, simplicity, or complexity of the subject matter of the official papers or documents processed by said department, office or agency;

(2) Completeness or inadequacy of requirements or of data and information necessary for decision or action;

(3) Lack of resources caused by circumstances beyond the control of the department, office or agency, or official or employee concerned;

(4) Legal constraints such as restraining orders and injunctions issued by proper judicial, quasi-judicial, or administrative authorities;

(5) Fault, failure or negligence of the party concerned which renders decision or action not possible or premature; and

(6) Fortuitous events or *force majeure*;

Senator Guingona. Yes, Mr. President. We are cognizant of this, and this bill, as we stated earlier, seeks to supplement specific instances.

The Ombudsman, for example, Mr. President, would be the head of the interagency of critical agencies like the BIR and the Bureau of Customs.

The President. What the Chair is merely suggesting is that, perhaps, if there is need for a more detailed rule, the Civil Service Commission would be the proper agency to address this matter; so that, with their cooperation, they can issue more detailed rules in accordance with this bill.

Senator Guingona. They are included in the Committee, Mr. President.

SUSPENSION OF THE SESSION

The President. Why do we not suspend the session for one minute, if there is no objection? [*There was none.*]

It was 11:13 a.m.

RESUMPTION OF THE SESSION

At 11:15 a.m., the session was resumed.

The President. The session is resumed.

The Majority Floor Leader is recognized.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 842

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 842.

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

BILL ON SECOND READING

Senate Bill No. 733 — Defining and Penalizing Plunder

Senator Mercado. Mr. President, I move that we consider Senate Bill No. 733 as reported out under Committee Report No. 451.

The President. Consideration of Senate Bill No. 733 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. 733, entitled

AN ACT DEFINING AND PENALIZING THE OFFENSE OF PLUNDER.

The following is the whole text of Proposed Senate Bill No. 733:

EXPLANATORY NOTE

One of the characteristics of the post-Marcos era is the heightened public sensitivity to the issues of graft and corruption and accountability of public officials. A manifestation of this is the inclusion of two new provisions bearing on said subjects in the Constitution of 1986. These are Section 27 of Article II (Declaration of Principles and State Policies)

"The state shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption."

and Section 15 of Article XI (Accountability of Public Officers)

"The right of the State to recover properties unlawfully acquired by public officials or employees from them or from their nominees or transferees shall not be barred by prescription, laches or estoppel."

In furtherance of aforesaid constitutional purposes, specifically that the State shall take positive and effective measures against graft and corruption, this bill on *plunder* is proposed in answer to the need for a penal law that can adequately cope with the nature and magnitude of the corruption of the previous regime. The inadequacy of existing laws is patent. The government found it necessary to file 39 separate complaints against the various co-conspirators, burdened by normal evidentiary requirements. Likewise, the overall conspiracy had to be cut up into several simple criminal and graft charges as required under existing laws.

Plunder, a term chosen from other equally apt terminologies like *kleptocracy* and *economic treason*, punishes

the use of high office for personal enrichment, committed thru a series of acts done not in the public eye but in stealth and secrecy over a period of time, that may involve so many persons, here and abroad, and which touch so many states and territorial units. The acts and/or omissions sought to be penalized do not involve simple cases of malversation of public funds, bribery, extortion, theft and graft but constitute the plunder of an entire nation resulting in material damage to the national economy. The abovedescribed crime does not yet exist in Philippine statute books. Thus, the need to come up with a legislation as a safeguard against the possible recurrence of the depravities of the previous regime and as a deterrent to those with similar inclination to succumb to the corrupting influence of power.

(Sgd.) TEOFISTO T. GUINGONA, JR.
Senator

(Sgd.) JOVITO R. SALONGA
Senator

(Sgd.) ALBERTO G. ROMULO
Senator

(Sgd.) ORLANDO S. MERCADO
Senator

(Sgd.) RENE A. V. SAGUISAG
Senator

(Sgd.) WIGBERTO E. TANADA
Senator

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

SECTION 1. Definition of Terms. - As used in the term

(a) "Public official" means any person holding any public office in the Government of the Republic of the Philippines by virtue of an appointment, election or contract.

(b) "Government" includes the National Government, local government, government-owned or government-controlled corporation and all other instrumentalities or agencies of the Republic of the Philippines and their branches.

(c) "Person" includes natural and juridical persons, unless the context indicates otherwise.

(d) "Ill-gotten wealth" means any asset, property, business enterprise or material possession of persons within the purview of Section two hereof, acquired by them directly, or indirectly through dummies, nominees, agents, subordinates and/or business associates by any of the following means or similar schemes:

(1) Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury.

(2) Through the receipt, directly or indirectly, of any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the official concerned;

(3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies, or instrumentalities or government-owned or -controlled corporations;

(4) By obtaining, receiving, or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation in any business enterprise or undertaking;

(5) Through the establishment of agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or

(6) By taking undue advantage of official position authority, relationship, connection or influence to unjustly enrich themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

SEC. 2. Definition of the Crime and Penalty. - Any public officer who, by himself or in connivance with other persons, whether members of his family, relatives, business associates, subordinates and others, for the benefit of himself, shall, through a systematic or methodical scheme, or conspiracy consummated by a series of overt or criminal acts, such as bribery, extortion, malversation of public funds, swindling, falsification of public documents, coercion, theft, frauds and illegal exactions, violations of the Anti-Graft and Corrupt Practices Act (R.A. No. 3019, as amended) and like offenses, amass, accumulate or acquire ill-gotten wealth as defined in Section one hereof, shall be guilty of the crime of plunder, provided that the total amount is not less than One hundred million pesos (P100,000,000.00).

Such public officer or persons who schemed, conspired or knowingly benefited from the aforesaid acts or conspiracy shall be found guilty of the crime of plunder and shall be punished with life imprisonment and perpetual disqualification from public office. Furthermore, the court shall declare any and all ill-gotten wealth so acquired, accumulated or amassed by them escheated or forfeited in favor of the State in an amount equivalent to double the value of the assets illegally accumulated.

SEC. 3. Competent Court. - Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the *Sandiganbayan*.

SEC. 4. Rule of Evidence. - For purposes of establishing the crime of plunder, it shall not be necessary to prove each and every criminal act done by the accused in furtherance of the scheme or conspiracy to amass, accumulate or acquire ill-gotten wealth, it being sufficient to establish beyond reasonable doubt a pattern of overt or criminal acts indicative of the overall unlawful scheme or conspiracy.

SEC. 5. Suspension and Loss of Benefits. - Any public officer against whom any criminal prosecution under a valid information under this Act is whatever stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime, administrative proceedings have been filed against him.

SEC. 6. Prescription of Offenses. - The crime punishable under this act shall be imprescriptible.

SEC. 7. Separability of Provisions. - If any provision of this Act or the application to any person of circumstance is held invalid, the remaining provisions to other persons or circumstances shall not be affected thereby.

SEC. 8. Scope. - This Act shall not apply to or affect pending prosecutions or proceedings, or those which may be instituted under Executive Order No. 1, issued and promulgated on February 28, 1966.

SEC. 9. Effectivity. - This Act shall take effect after fifteen (15) days from its publication in the Official Gazette and in a newspaper of general circulation.

Senator Mercado. Mr. President, I ask that we recognize Senator Tañada to sponsor the measure.

The President. Senator Tañada is recognized.

SPONSORSHIP SPEECH OF SENATOR TAÑADA

Senator Tañada. Mr. President and Members of this august Body, I stand here today to ask for my Colleagues' support and approval of Senate Bill No. 733, entitled

AN ACT DEFINING AND PENALIZING THE OFFENSE OF PLUNDER.

The passage of this proposed legislative measure, which is principally authored by no less than our esteemed Senate President, and cosponsored by Senators Saguisag, Romulo, Guingona, Mercado, and this Representation, has become imperative, given our contemporary experience with some people who have occupied high positions in government.

It cannot be seriously disputed that much of our economic woes and the nation's anguish are directly attributable to the despoliation of the National Treasury by some public officials who have held the levels of power.

It is sad to state, Mr. President, that there is presently no statute that either effectively discourages or adequately penalizes this predatory act which reached unprecedented heights and which had been developed by its practitioners to a high level of sophistication during the past dictatorial regime.

For, while it is true that we have laws defining and penalizing graft and corruption in government and providing for the forfeiture of unexplained wealth acquired by public officials, it has become increasingly evident that these legislations are no longer suffice to deter massive looting of the national wealth; otherwise, this country would not have been raided and despoiled by the powers that be at that time.

Indeed, there is a need to define plunder, and provide for its separate punishment as proposed in Senate Bill No. 733; because, plunder involves not just plain thievery but economic depredation which affects not just private parties or personal interest but the nation as a whole. And, therefore, Mr. President, it is a crime against national interest which must be stopped and if possible stopped permanently.

It is in this light, distinguished Members of the Senate, that Senate Bill No. 733 was conceived and fashioned out by its Authors. And I ask my distinguished Colleagues to pass this bill, not only to forestall the future plunder of the country's coffers, but to deter and abort, hopefully, any attempt or scheme to amass wealth unlawfully by those who hold public office. True, it is that this piece of legislation may not provide the panacea for graft in government as no statute can, considering much limitless capacity for mischief. But, with the approval of this bill, at least, it cannot be said that we, in the Senate during our day, did not have the will and the courage to confront a real evil existing in government officialdom and to propose a remedy for it.

Thank you, Mr. President.

Senator Maceda. Mr. President.

Senator Guingona. Mr. President.

The President. Senator Maceda is recognized, then Senator Guingona.

Senator Maceda. Will the distinguished Chairman of the Committee on Constitutional Amendments, Revision of Codes and Laws yield to a few questions?

Senator Tañada. Gladly, Mr. President.

Senator Maceda. I would like to congratulate the Gentleman for sponsoring this bill. May I just have some clarification on the meat of the bill which is Section 2 — Definition of the Offense of Plunder. To begin with, Mr. President, assuming that the facts as are now being reflected in the newspapers are correct, the Garchitorena land case would not fall under this definition because it is less than a P100 million.

Senator Tañada. Yes, Mr. President. Under the present wording of Section 2 of the bill, it would not be covered because the bill expressly states that the crime of plunder would be committed by a public official who amasses ill-gotten wealth through a series of overt or criminal acts in the amount of P100 million, at least. So, anything less than that amount will not be covered by this bill.

Senator Maceda. The second point, Mr. President, is that, as the distinguished Gentleman has just stated, if a public official, with one jackpot transaction, makes P100 million or above, he may not be included because it is not a series of criminal acts or transactions.

Senator Tañada. That would be correct, Mr. President. But, I believe, that this bill can stand improvement, and we hope that we will have the amendments of the distinguished Gentleman.

Senator Maceda. So, would the distinguished Gentleman, in the period of amendments, accept that, first of all, when the amount is substantial enough - whatever amount we agree on, just one single act or one single transaction could already be covered by this offense?

Senator Tañada. We are willing to consider that.

Senator Maceda. That while P100 million might be the cut-off point for life imprisonment and perpetual disqualification from holding any public office, maybe from P10 to P99 million we could just impose the next lower penalty.

Senator Tañada. We are willing to consider that, Mr. President.

May I just state that the amount of P100 million was arrived at in the light of the experience had at the PCGG when it investigated the supposed ill-gotten wealth acquired by some public officials in the past administration. It was discovered that in many cases investigated, if not all, the amount involved is not less than P100 million.

Senator Maceda. I am just pointing out, Mr. President, that, as exemplified by the Garchitorena Land Case which was a 62-

million case, the tremendous adverse public reaction already indicates to us, Mr. President, that maybe a lower amount than P100 million should be covered. Although we are aware that there are existing penalties for singular acts or lower amounts; but if the idea is to send a message and to strengthen the present laws, maybe, some amendments along that line might be worth considering.

Senator Tañada. We are willing to consider that.

Senator Maceda. Thank you.

The President. Apart from the Garchitorena Land deal, where there other transactions that can form a series? I understand from the papers that there are other land deals that have not yet been revealed.

Senator Tañada. That is what I have also read in the newspapers, Mr. President, but I am not yet aware of the details.

The President. Senator Gonzales is recognized, and then Senator Guingona.

Senator Gonzales. Mr. President, will the distinguish Senator yield to some questions?

Senator Tañada. Gladly, Mr. President.

Senator Gonzales. To commit the offense of plunder, as defined in this Act and while constituting a single offense, it must consist of a series of overt or criminal acts, such as bribery, extortion, malversation of public funds, swindling, falsification of public documents, coercion, theft, fraud, and illegal exaction, and graft or corrupt practices act and like offenses. Now, Mr. President, I think, this provision, by itself, will be vague. I am afraid that it might be faulted for being violative of the due process clause and the right to be informed of the nature and cause of accusation of an accused. Because, what is meant by "series of overt or criminal acts"? I mean, would 2, 3, 4 or 5 constitute a series? During the period of amendments, can we establish a minimum of overt acts like, for example, robbery in band? The law defines what is robbery in band by the number of participants therein. In this particular case, probably, we can statutorily provide for the definition of "series" so that two, for example, would that be already a series? Or, three, what would be the basis for such a determination?

Senator Tañada. I think, Mr. President, that would be called for, this being a penal legislation, we should be very clear as to what it encompasses; otherwise, we may contravene the constitutional provision on the right of the accused to due process.

Senator Gonzales. Yes, Mr. President. This aggregate amount or total value of P100 million, does this represent the

value of the transaction? Or, does this represent the amount of the allegedly ill-gotten wealth?

Senator Tañada. To my understanding, Mr. President, that would refer to the value of the alleged ill-gotten wealth.

Senator Gonzales. So that a transaction may involve billions of pesos. But if the amount have gone to the personal benefit and, therefore, ill-gotten in that sense on the part of the accused is less than P100,000, he could not be penalized under this Act?

Senator Tañada. That would seem to be the noble interpretation under the present wording of the provision.

Senator Gonzales. So, the offense of plunder would necessarily absorb all the overt or criminal acts, so that if, let us say, a public official or a person is prosecuted and convicted or acquitted for the case of plunder that would already be a bar to a prosecution for the independent acts constituting the series of offenses, Mr. President.

Senator Tañada. That is correct, Mr. President. This kind of plunder could be considered as a complex crime, so that the individual acts which could by themselves be considered criminal would be deemed absorbed by the crime of plunder. So that if one is already convicted of the crime of plunder...

Senator Gonzales. Or acquitted.

Senator Tañada. No, not necessarily, Mr. President. Because if one is acquitted of the crime of plunder, he may still be charged and found guilty of a lesser offense which could just be a simple case, say, of malversation or bribery.

Senator Gonzales. If one is acquitted, Mr. President, for the crime of plunder and he is prosecuted for an act necessarily absorbed therein and, therefore, necessarily a part of the offense of plunder, would not the constitutional prohibition against double jeopardy apply? Because no person shall twice be placed in jeopardy or punishment for the same offense, and the same offense includes an offense necessarily included in that offense. And here, the law on jeopardy provides, not only for a conviction, but also for acquittal or even the dismissal of the case against the accused without his express consent. So double jeopardy would already necessarily set in.

Senator Tañada. It may not necessarily set in, Mr. President. For example, if one has been accused of the crime of murder but during the trial it turns out that the evidence presented was not sufficient for the accused to be convicted of the crime of murder, the accused could still be found guilty of homicide and there would be no violation of his right to double jeopardy.

Senator Gonzales. Yes. But if he is acquitted of the crime of murder on the same ground, can he be prosecuted for a lesser offense like homicide?

Senator Tañada. Yes, Mr. President. There are decisions to that effect that on the same information, one who has been accused of murder can be convicted for the lesser crime of homicide.

Senator Gonzales. That is not my question. I mean, one can be convicted of a lesser offense than that charged in the information. There is no question about that because this is only a single proceeding. What we are talking of are really two proceedings: first, a criminal prosecution for plunder, and the accused is acquitted. The question is: "Will that not operate as a bar to a criminal prosecution for any of the independent offenses which constitute the series for which he was prosecuted for plunder?"

Senator Tañada. I see. Let us say, Mr. President, that the accused is charged with the crime of plunder and then, during the trial, it comes out that the evidence presented does not support the allegation that he has amassed at least P100 million of ill-gotten wealth but only, let us say, P50 million or P20 million. Now, the court may not convict him for the crime of plunder but it can convict him for the crime of malversation or bribery or theft.

Now, the Gentleman's question is, but what if the court finds him innocent? Then, I think, that perhaps will present the problem that the Gentleman is now raising.

Senator Gonzales. I think the same would constitute double jeopardy, Mr. President.

Senator Tañada. So, maybe, this has to be clarified, Mr. President.

Senator Gonzales. Yes, Mr. President, and that is the purpose of this question. For as long as they are alleged in the information, meaning, that they are alleged to be as constituting the series of criminal acts which constitute the offense of plunder and for which the accused is being hailed or prosecuted before the court, Mr. President, so, the forfeiture of the ill-gotten wealth, Mr. President, will be ordered by the court in case of a judgment for conviction in the same criminal case for plunder.

Senator Tañada. Yes, Mr. President.

Senator Gonzales. There is no need for the State to file an independent action civil in nature under the Magsaysay Anti-Graft and Corrupt Practices Act so that the court could declare a forfeiture in favor of the State of the said property.

Senator Tañada. That is correct, Mr. President. Under this bill there would be no need for that. The court will, when it finds the accused guilty of the crime of plunder, order the forfeiture of the property in favor of the government.

Senator Gonzales. Yes, Mr. President. So, in this particular case, probably the theory underlying this provision then is that the ill-gotten wealth constitutes the fruits of the offense that is penalized for the first time under this Act. Would that not be, Mr. President?

Senator Tañada. Yes, Mr. President.

Senator Gonzales. But suppose, let us take it the other way. Will a forfeiture proceeding before the Sandiganbayan, under the Magsaysay Anti-Graft and Corrupt Practices Act, constitute a bar to a criminal prosecution for the crime of plunder if and when this bill shall become a law?

Senator Tañada. This would be made to apply prospectively.

Senator Gonzales. Let us assume that it is prospective, because this is not intended to repeal entirely the provisions of the Magsaysay Anti-Graft and Corrupt Practices Act which provides for an independent action in the name of the Republic of the Philippines, the prayer being to declare forfeited in favor of the State what we call "ill-gotten wealth" or properties which are manifestly out of proportion to his lawful income, and income coming from other lawful sources but arising from a series of acts which, in themselves, constitute offenses.

Senator Tañada. So, the person is charged with the violation of that Anti-Graft and Corrupt Practices Act.

Senator Gonzales. Yes. Assuming that there is judgment of forfeiture — because that is the only judgment; that is civil in form — but then, after judgment of forfeiture has been issued by the Sandiganbayan, still the defendant can be prosecuted for plunder under this provision.

Senator Tañada. I personally would not mind that being legally feasible; but, I would have some constitutional questions.

Senator Gonzales. Yes, Mr. President. I think, in the case of *Cabal vs. Capunan*, the Supreme Court had said that, while the forfeiture proceeding is garbed in civil form, the essence, however, is that it is penal or criminal since there is a penalty imposed and the penalty being that of forfeiture of property in favor of the State. That is why, I recall that, in that case, the original law provided that before a complaint could be filed, there must be a finding of probable cause to be determined by a fiscal after preliminary investigation. And General Cabal, who was formerly

the Chief of Staff, after he was no longer in the service, was really made a defendant in a forfeiture case. The City Fiscal of Manila created a Committee of Fiscals. General Cabal refused to give testimony before the Fiscal's Office. This Committee of Fiscals filed a petition for the issuance of an order commanding him to appear and give testimony. Judge Capunan then of the Court of First Instance of Manila issued the order. And when he still failed or refused to testify, he was cited for contempt for violation of the order of the Court. The Supreme Court ruled that, although garbed in civil form, this is in the nature of a criminal proceeding. And, therefore, being in the nature of a criminal proceeding, then the Constitution says that no person can be compelled to become a witness against himself.

And under our Rules of Court, it says that the right against self-incrimination includes the right of the defendant not to testify or to give testimony, and his refusal to do so shall not be taken against him.

So, probably, this is one area that a more in-depth study — I am not prepared to say so, I am just merely provoking some discussion and, probably, a deeper thinking on the effect of this bill, Mr. President.

Senator Tañada. Yes, Mr. President. Under Section 6 of that law, which is entitled

AN ACT DECLARING FORFEITURE IN FAVOR OF THE STATE ANY PROPERTY FOUND TO HAVE BEEN UNLAWFULLY ACQUIRED BY ANY PUBLIC OFFICER OR EMPLOYEE, AND PROVIDING FOR THE PROCEEDINGS THEREFOR.

Under Section 6 of that law, Mr. President, it is provided:

If the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property, forfeited in favor of the State, and by virtue of such judgment the property aforesaid shall become property of the State; *Provided*, That no judgment shall be rendered within six months before any general election or within three months before any special election.

Said Section 6 continues, Mr. President.

The Court may, in addition, refer this case to the corresponding Executive Department for administrative or criminal action, or both.

So, it would seem that, even after the accused has been found guilty of violating this law, he could still be criminally prosecuted.

Senator Gonzales. I have no problem with respect to the administrative action that may be taken. But I have my doubts, as far as the criminal action is concerned. That has not yet been tested before the Court.

And, since this is a criminal case, Mr. President, then the Gentleman is correct that this can be applied only prospectively.

Senator Tañada. Yes, Mr. President.

Senator Gonzales. It cannot be applied retroactively, and therefore, it could not reach past offenses. However, they may, in truth, constitute plunder as defined under this bill that has been committed in the past. To do so would make it an *ex post facto* law.

Senator Tañada. The Gentleman is correct, Mr. President.

Senator Gonzales. Thank you, Mr. President.

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized, then Senator Paterno and Senator Romulo.

Senator Guingona. Just some clarificatory questions of the distinguished Sponsor, Mr. President.

Senator Tañada. Gladly, Mr. President.

Senator Guingona. The bill, in the definition of "ill-gotten wealth," Section 1, letter (d), - the "ill-gotten wealth" as defined herein must be acquired under any of the names enumerated thereunder:

1. Through misappropriation, et cetera;
2. By receiving directly or indirectly gift, kickbacks, that is clearly felony by itself;
3. By illegal or fraudulent conveyance or disposition of assets belonging to the National Government;
4. By obtaining, receiving or accepting, directly or indirectly, any shares of stock, ... in any business enterprise or undertaking."

Will this number four be a criminal offense by itself? A public official receives shares of stock for participation in any business enterprise or undertaking. If taken in isolation by itself, it is not an offense. Is that correct, Mr. President?

Senator Tañada. Yes, Mr. President. It has to be a series of overt or criminal acts. So, this has to be accompanied by other criminal acts to be covered by this bill.

Senator Guingona. Yes. So, the act of receiving is in itself not punishable. Is it?

Senator Tañada. It would be punishable under the Anti-Graft and Corrupt Practices Act, but not under this proposed measure, Mr. President.

Senator Guingona. Receiving shares of stock under an ordinary business transaction?

Senator Tañada. If it is given to him by reason of the position he occupies or in expectation of some action or inaction that he is supposed to do.

Senator Guingona. Yes. Now, under number five also, it states:

(5) By ESTABLISHING agricultural, industrial or commercial monopolies or other combinations, ... intended to benefit particular persons..."

Would this, by itself, be an offense?

Senator Tañada. As I mentioned earlier, it will have to be a combination or a series of acts, Mr. President.

Senator Guingona. As we understand it, therefore, there has to be a scheme or a conspiracy.

Senator Tañada. That is right, Mr. President.

Senator Guingona. And, there has to be bribery; there has to be extortion...

Senator Tañada. Mr. President, not necessarily all of these individual criminal acts, but any combination of them.

Senator Guingona. Yes.

The President. The Chair would like to ask the question: ...

Senator Tañada. Yes, Mr. President.

The President. ... Is this supposed to be committed by the public official himself, the establishment of commercial or agricultural monopolies?

Senator Tañada. Yes, Mr. President.

The President. Under the present Constitution, can we do that, if we are public officials? We are not supposed to engage even in private business.

Senator Tañada. That is correct, Mr. President. We cannot, under the present Constitution.

Senator Guingona. All right. So, are we to understand from the response to the questions of the Chair that numbers four and five are, by themselves, offenses?

Senator Tañada. Yes, Mr. President. But, taken by themselves alone, they would not be covered by this bill but by other existing laws.

Senator Guingona. Since it is a series or a scheme, what amount of evidence will, therefore, be required? Must there be a pattern of the criminal acts? Must there be a series of briberies, for example? Or, can there be only one?

Senator Tañada. Under Section 4 of the bill, Mr. President, it is provided that:

For purposes of establishing the OFFENSE of plunder, it shall not be necessary to prove each and every criminal act done by the accused in furtherance of the scheme or conspiracy to amass, accumulate or acquire ill-gotten wealth, ... but, there must be enough evidence "sufficient to establish beyond reasonable doubt a pattern of overt or criminal acts indicative of the overall unlawful scheme or conspiracy."

So, that is the quantum of evidence that would be required under this proposed measure.

Senator Guingona. That is sufficient to establish the *prima facie* case.

Senator Tañada. Yes, Mr. President.

Senator Guingona. I would like to know: In the past regime, everything was done supposedly legal — with the adequate presidential decrees, with the lawyers assisting the CPAs manipulating the books — because they were covered by the necessary law supposedly. Would they all be now under this bill? Would they be liable?

Senator Tañada. They would be liable; they would be covered under this bill, Mr. President.

Senator Guingona. So, even if there is a law or some rules and regulations purportedly justifying the illegal acts, provided that there is a conspiracy to enrich oneself P100 million, then that would be falling within the....

Senator Tañada. That is correct, Mr. President, that would be clearly covered by this bill.

Senator Guingona. The lawyer who concocts, who sets up the corporation, the lawyer, who sets up the damage, stockholders, or the lawyer who transfers equity from one to the other. Would he fall under this?

Senator Tañada. Yes, Mr. President.

Under this bill, it will not only be the public official who can be criminally prosecuted, but even private citizens who may have been found to have been part of that conspiracy or scheme to amass this ill-gotten wealth. So that a private citizen under the principle in Criminal Law, can be held liable under this bill if there can be proven conspiracy. So, he can be a principal by direct participation, by inducement or he can be considered as an accused; maybe, not as a principal, but an accomplice or merely as an accessory.

Senator Guingona. As I understand from the responses of the distinguished Senator to the interpellation of Senator Gonzales, without prejudice to his liability under specific laws, he can be disbarred; he can be prosecuted for bribery, for other similar offenses included in the charge.

Senator Tañada. If the charge against him is included for the crime of plunder, then that would already be absorbed in that crime of plunder.

Senator Guingona. He can no longer be disbarred.

Senator Tañada. I believe he can still be disbarred. But he can no longer be prosecuted for the individual crime of malversation or falsification of public or commercial documents. That would already be absorbed in the crime of plunder.

Senator Guingona. Thank you, Mr. President.

Senator Paterno. Mr. President.

The President. Senator Paterno is recognized.

Senator Paterno. Will Senator Tañada yield to some questions?

Senator Tañada. Gladly, Mr. President.

Senator Paterno. Mr. President, not too clear yet on the reason for trying to define a crime of plunder. Could I get some further clarification?

Senator Tañada. Yes, Mr. President.

Because of our experience in the former regime, we feel that there is a need for Congress to pass the legislation which would

cover a crime of this magnitude. While it is true, we already have the Anti-Graft Law. But that does not directly deal with plunder. That covers only the corrupt practices of public officials as well as their spouses and relatives within the civil degree, and the Anti-Graft law as presently worded would not adequately or sufficiently address the problems that we experienced during the past regime.

Senator Paterno. May I try to give the Gentleman, Mr. President, my understanding of the bill?

Senator Tañada. Yes.

Senator Paterno. I envision that this bill or this kind of plunder would cover a discovered interconnection of certain acts, particularly, violations of Anti-Graft and Corrupt Practices Act when, after the different acts are looked at, a scheme of conspiracy can be detected, such scheme or conspiracy consummated by the different criminal acts or violations of Anti-Graft and Corrupt Practices Act, such that the scheme or conspiracy becomes a sin, as a large scheme to defraud the public or rob the public treasury. It is *parang robo* and *banda*. It is considered as that. And, the bill seeks to define or says that P100 million is that level at which ay talagang sobra na dapat nang parusahan ng husto. Would it be a correct interpretation or assessment of the intent of the bill?

Senator Tañada. Yes, Mr. President. The fact that under existing law, there can be only one offense charged in the information, that makes it very cumbersome and difficult to go after these grafters if we would not come out with this bill. That is what is happening now; because of that rule that there can be only one offense charged per information, then we are having difficulty in charging all the public officials who would seem to have committed these corrupt practices. With this bill, we could come out with just one information, and that would cover all the series of criminal acts that may have been committed by him.

Senator Paterno. Would the Author not agree that this crime of plunder should be considered a heinous crime, Mr. President?

Senator Tañada. Yes, Mr. President. That is why, the penalty imposed under this bill is life imprisonment, and permanent disqualification from holding public office.

Senator Paterno. I would really ask, Mr. President, whether the Author would not consider that this is a heinous crime which, for compelling reasons, namely, to try and dampen the graft and corruption, Congress should provide the death penalty for the crime of plunder.

Senator Tañada. I personally would have some problem with that, Mr. President, because I am against the restoration of

death penalty in our criminal code. I would submit that to this Body.

Senator Paterno. I respect the ministerial attitude and the respect for human life of the author, Mr. President, but I just feel that graft and corruption is such a large problem in our society that, perhaps, it is necessary for this Congress to express itself that this crime of plunder is a heinous crime which should be levied the death penalty, Mr. President.

Thank you, Mr. President.

Senator Tañada. Thank you, Gentleman.

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. Just a few questions, Mr. President, if the distinguished Sponsor will yield.

Senator Tañada. Gladly, Mr. President.

Senator Romulo. As one of the co-sponsors of the Bill, Mr. President, my intention is just to clarify.

Senator Tañada. Yes, Mr. President.

Senator Romulo. To follow up the interpellations of Senators Paterno and Maceda, this crime of plunder as envisioned here contemplates of a series or a scheme as responded by the distinguished Sponsor.

Senator Tañada. That is correct, Mr. President.

Senator Romulo. And, therefore, the series would be at least amounting to P100 million?

Senator Tañada. That is correct, Mr. President.

Senator Romulo. Mr. President, would, at the proper time, the Sponsor be amenable to an amendment whereby instead of P100 million, the amount be reduced to P50 million?

Senator Tañada. I would be willing to consider that, Mr. President.

Senator Romulo. Also, Mr. President, although the Gentleman had explained, time and again, that this is a series or a scheme, what if that P50 million, or for that matter P100 million, is only one and not a series, would the distinguished Sponsor also be willing to accept an amendment whereby the amount is P50

million, above P50 million, or about P100 million, depending on what figure we would agree on, that this would also be considered under this Bill?

Senator Tañada. Personally, I would be willing to consider that. But, I would like to have time to consult with the principal Author of this measure.

Senator Romulo. The other question that I would like to propose, Mr. President, is that this bill provides that the prescription of the offense, shall the offense be imprescriptible?

Senator Tañada. Yes, Mr. President.

Senator Romulo. That, perhaps, is a good provision of the bill. But, may I ask, Mr. President, what is in this bill that would insure that there would be a speedier prosecution and, therefore, conviction or acquittal than heretofore is prevailing? What is in this bill that would provide for speedier process by which this crime of plunder would readily and immediately be processed and convicted or acquitted than is now existing in present laws?

Senator Tañada. Yes, Mr. President. On the point of prescription, Mr. President, it is true that it is provided in this bill that the action shall not prescribe. But, that is pursuant to Section 15 of Article XI which states that the right of the State to recover properties unlawfully acquired by public officials or employees, from them or from their nominees or transferees, shall not be barred by prescription, laches, or estoppel.

Now, on the second point, Mr. President, I believe that what could make faster and speedier prosecution of these grafters would be a change that will be authorized in this bill, at least, in the filing of information against the perpetrators. Under the existing criminal procedure, as I said earlier, there can be only one offense charged per information. So, if there is going to be a series of overt or criminal acts committed by the grafter, then that would necessitate the filing of so many information against him. Now, if this bill becomes a law, then that means that there can be only one information filed against the alleged grafter. And the evidence that will be required to convict him would not be evidence for each and every individual criminal act but only evidence sufficient to establish the conspiracy or scheme to commit this crime of plunder.

Senator Romulo. And, Mr. President, the Gentleman feels that it is contained in Section 4, Rule of Evidence, which, in the Gentleman's view, would provide for a speedier and faster process of attending to this kind of cases?

Senator Tañada. Yes, Mr. President, and, maybe, in the period of amendments, we can incorporate what is already contained in Section 8 of the Anti-Graft and Corrupt Practices Act

which states that if it can be shown really that there is this disproportionate wealth that a public official possesses and owns compared to what his lawful income would have allowed him to acquire, then the burden of proof would already be transferred to the accused.

Senator Romulo. So, this would be incorporated by the process of amendment during the period of amendments?

Senator Tañada. Yes, Mr. President.

Senator Romulo. One other question, Mr. President. In the original bill, it so provided that on the question of forfeiture, it said: "... forfeited in favor of the State in an amount equivalent to double the value of the assets illegally accumulated...". In the bill, as reported out by the Committee, that portion of the original bill was deleted and, in lieu thereof, it states "... shall declare any and all ill-gotten wealth forfeited in favor of the State", in lieu of the original phraseology which stated "... in an amount equivalent to double the value".

May this Representation be enlightened on why the original phraseology was changed?

Senator Tañada. Mr. President, we felt that it would be difficult, first of all, to establish what would be "double the value of the assets illegally accumulated", and this could just prolong the proceeding or the trial. And so, we thought that it would be more practical to just provide that whatever is found to have been the ill-gotten wealth, then that is what should be forfeited in favor of the government.

Senator Romulo. One final question, Mr. President.

In view of the importance of this bill, and the fact, as stated by the Sponsor, that this is a must and an urgent bill, may I inquire, Mr. President, if this bill is being requested as certified or urgent bill, so that both Houses can address themselves to this bill and, therefore, have this passed the soonest?

Senator Tañada. As far as I know, Mr. President, there is no certification from the President as to the urgency of the enactment of this bill.

Senator Romulo. But, of course, the Sponsor would agree that this should be considered an urgent bill?

Senator Tañada. Yes, Mr. President.

Senator Romulo. Thank you, Mr. President.

The President. The Majority Floor Leader is recognized.

SUSPENSION OF CONSIDERATION
OF SENATE BILL NO. 733

Senator Mercado. Mr. President, I move that we suspend consideration of Senate Bill No. 733.

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

Senator Mercado. Mr. President, this afternoon, we shall be voting on Third Reading on some measures pending Third Reading. We shall deliberate and approve hopefully the Conference Committee Report on Wages, and continue the discussion on Senate Bill No. 549, the Multi-Purpose Pavements, and Senate Bill No. 181, Lowering the Age of Majority, the pet bill of Senator Lina.

SUSPENSION OF THE SESSION

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

The President. The session is suspended until three o'clock this afternoon, if there is no objection. [There was none.]

It was 12:14 p.m.

RESUMPTION OF THE SESSION

At 3:28 p.m., the session was resumed with the Honorable Jovito R. Salonga, President of the Senate, presiding.

The President. The session is resumed.

The Majority Floor Leader is recognized.

CONFERENCE COMMITTEE REPORT
ON SENATE BILL NO. 1084/HOUSE BILL NO. 23227
(Wage Policy)

Senator Mercado. Mr. President, we are in receipt of Conference Committee Report on Senate Bill No. 1084, entitled

AN ACT TO RATIONALIZE WAGE POLICY
DETERMINATION BY ESTABLISHING A
MECHANISM THEREFOR, AND FOR OTHER
PURPOSES

and House Bill No. 23227, entitled

AN ACT TO RATIONALIZE WAGE POLICY
DETERMINATION BY ESTABLISHING THE
MECHANISM AND PROPER STANDARDS

THEREFOR AMENDING FOR THE PURPOSE ARTICLES 99, 120, 121, 122, and 123 OF PD 442 OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, FIXING THE STATUTORY MINIMUM WAGES, PROVIDING WAGE INCENTIVES FOR INDUSTRIAL DISPERSAL TO THE COUNTRYSIDE, AND FOR OTHER PURPOSES.

May I move that we consider the said report and recognize the Chairman of the Committee on Labor and Employment, Senator Herrera, to sponsor the said report.

The President. Senator Herrera is recognized.

SPONSORSHIP SPEECH OF SENATOR HERRERA

Senator Herrera. Thank you, Mr. President.

The Conference Committee on the disagreeing provisions of Senate Bill No. 1084 and House Bill No. 23227 having met in full and free conference has agreed to recommend, and do hereby recommend to their respective Houses, that Senate Bill No. 1084, in consolidation with House Bill No. 23227 be approved as follows: — Mr. President, this is quite a thick report, this is a 31-page report. I do not know how we can abbreviate the report but, maybe, I will just cite the particular lines where we have some amendments so that we can abbreviate the reporting and we will be sacrificing the other agenda for this afternoon's session.

On page 1 of Senate Bill No. 1084, lines 4 and 5, delete the phrase "nationally or regionally".

On page 1, line 5, before the word "PROMOTE", insert the words "AND TO".

On the same page, on line 5, after the word "PROMOTE", insert the phrase "PRODUCTIVITY-IMPROVEMENT AND GAIN-SHARING MEASURES TO ENSURE A".

On page 1, line 5, delete the word "the" between the words "PROMOTE" and "decent".

On the same page and line, delete the word "or" and in its place insert the word "FOR".

On page 1, line 6, after the word "families", replace the comma (,) symbol with the semi-colon (;) symbol".

On the same page and line, before the word "stimulate" insert the phrase "TO GUARANTEE THE RIGHTS OF LABOR TO ITS JUST SHARE IN THE FRUITS OF PRODUCTION; TO ENHANCE EMPLOYMENT GENERATION IN THE COUN-

RECORD OF THE SENATE

TUESDAY, JUNE 6, 1989

OPENING OF THE SESSION

At 10:26 a.m., the Honorable Jovito R. Salonga, President of the Senate, called the session to order.

The President. Binubuksan ang pulong ng Senado.

Pangungunahan tayo sa panalangin ni Senador Juan Ponce Enrile.

Everybody remained standing for the opening prayer.

PRAYER

Senator Enrile.

Almighty God,
Bestow upon us and our people a tenacity of spirit
To pursue with vigor and resolution
The campaign against graft and corruption.

Enlighten the leaders of our Republic, O Lord,
To allow neither friendship nor kinship
To compromise the prosecution of offenders
So that the ends of justice are served
And a new moral order is installed in the land.

Amen.

ROLL CALL

The President. Babasahin ng Kalihim ang talaan ng mga Senador.

The Secretary.

Senator Heherson T. Alvarez	Present
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Juan Ponce Enrile	Present
Senator Joseph Ejercito Estrada	Present*
Senator Neptali A. Gonzales	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Present
Senator Sotero H. Laurel	**
Senator Jose D. Lina, Jr.	Present
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present

* Arrived after the roll
** On official mission

Senator John H. Osmeña	Present
Senator Vicente T. Paterno	Present
Senator Aquilino Q. Pimentel, Jr.	Present
Senator Santanina T. Rasul	Present
Senator Alberto G. Romulo	Present
Senator Rene A. V. Saguisag	Present
Senator Leticia Ramos Shahani	**
Senator Mamintal Abdul J. Tamano	**
Senator Wigberto E. Tafada	Present
Senator Victor S. Ziga	Present*
The President	Present

The President. Labingwalo ang mga Senador na dumalo sa ating pulong; mayroon tayong korum.

THE JOURNAL

Senator Mercado. Ginoong Pangulo, hinihingi ko na huwag nang basahin ang *Journal* ng nakalipas na sesyon at ito ay ituring na sinasang-ayunan.

The President. Mayroon po bang tutol? [Silence] Pinagtibay.

The Secretary will now proceed with the reading of the Order of Business.

REFERENCE OF BUSINESS

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

June 1, 1989

Mr. President:

I have been directed to inform the Senate that the House of Representatives approved on May 31, 1989 the Conference Committee Report on the disagreeing votes of the two Houses on House Bill No. 1469, entitled

AN ACT NAMING THE MANILA-CAVITE COASTAL ROAD AS THE AGUINALDO BOULEVARD.

Very respectfully yours,

(Sgd.) QUIRINO D. ABAD SANTOS, JR.
Secretary

The Honorable
JOVITO R. SALONGA
President of the Senate
Manila

Senator Guingona. Mr. President, I think there has to be a period.

Senator Saguisag. I think I see the point that there should be something like "WITHIN THREE YEARS FROM THE EFFECTIVITY OF THIS ACT". Subject to style, I accept, Mr. President.

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

The Majority Floor Leader is recognized.

APPROVAL OF SENATE BILL NO. 181
ON SECOND READING, AS AMENDED

Senator Mercado. Mr. President, I move that we close the period of amendments and vote on Second Reading on Senate Bill No. 181.

The President. We shall now vote on the bill on Second Reading. As many as are in favor of the bill, will please say *Aye*. [Several Senators: *Aye*] As many as are against will please say *Nay*. [Silence] Senate Bill No. 181 is approved on Second Reading.

BILL ON SECOND READING
Senate Bill No. 733 - Plunder
(Continuation)

Senator Mercado. Mr. President, I move that we resume consideration of Senate Bill No. 733 as reported out under Committee Report No. 451.

The President. Resumption of consideration of Senate Bill No. 733 is now in order.

Senator Mercado. Mr. President, we are still in the period of interpellations on this measure.

The President. Is there any interpellation? [Silence]

Senator Mercado. If there are none, Mr. President, I move that we close the period of interpellations and proceed to the committee amendments.

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

Are there any committee amendments?

COMMITTEE AMENDMENTS

Senator Tañada. Yes, Mr. President, we have the following committee amendments:

On page 1, line 1, between the words "in" and "the", insert the words "THIS ACT", so that the phrase will read as follows: "As used in THIS ACT the term".

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

Senator Tañada. On the same page, between lines 6 and 7, insert the words "AND ANY OF ITS SUBDIVISIONS, AGENCIES, OR INSTRUMENTALITIES, INCLUDING", so that the phrase will read: 'Government' includes the National Government AND ANY OF ITS SUBDIVISIONS, AGENCIES, OR INSTRUMENTALITIES, INCLUDING".

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

Senator Tañada. On the same page 1, line 7, write in plural the word "government". Remove the comma (,) and insert the word "AND".

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

Senator Tañada. Write in plural the word "corporation".

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

Senator Tañada. Delete the words "and all other instrumentalities or agencies of the Republic of the Philippines".

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

Senator Tañada. Delete the word "branches" and insert the word "SUBSIDIARIES" on line 11, page 1, so that the whole sentence will read as follows: "Government' includes the National Government AND ANY OF ITS SUBDIVISIONS, agencies or instrumentalities, including LOCAL GOVERNMENT AND government-owned or -controlled corporations and their SUBSIDIARIES."

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

Senator Tañada. On the same page 1, line 10, after the word "includes", insert the word "ANY" and delete the word "and" and insert the word "OR", then write the word "persons" in singular,

so that the sentence will read as follows: "'Person' includes ANY natural OR juridical person, unless the context indicates otherwise."

The President. Is there any objection? [*Silence*] The Chair hears one; the amendment is approved.

Senator Tañada. On the same page 1, line 13, after the word "of", insert the word "ANY" and write in singular the word "persons" so that the phrase will read, so that the sentence will read: "'Ill-gotten wealth' means any asset, property, business enterprise or material possession of ANY person".

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Tañada. On the same page 1, line 20, delete the words "Through the receipt" and insert the words "BY RECEIVING". That is all, Mr. President.

The President. It should be "BY RECEIVING directly or indirectly" and delete the word "of".

Senator Tañada. Yes, Mr. President.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Tañada. On page 2, line 3, between the words "the" and "official", insert the word "PUBLIC".

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

Senator Tañada. On page 2, line 12, delete the words "Through the establishment of" and insert the words "BY ESTABLISHING".

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Tañada. On the same page, line 18, delete the word "themselves" and insert the word "HIMSELF". So, instead of "themselves", it will be "HIMSELF".

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Tañada. On the same page 2, line 20, delete the words "crime" and "and", and insert the words "OFFENSE OF PLUNDER."

So that the heading will read as follows: "Definition of the OFFENSE OF PLUNDER; Penalty."

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Tañada. The proposed amendment, Mr. President, is to delete the words "other persons, whether", appearing on pages 21 and 22, so that the phrase would read as follows: "Any public officer who, by himself or in connivance with members of his family," and so on.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Tañada. On page 2, line 23, delete the word "and", and insert the word "OR"; write in singular the word "others", and insert the word "PERSONS"; delete the word "the", and insert the word "HIS"; and then, delete the words "of himself." So that the phrase would read as follows: "business associates, subordinates or other PERSONS, for HIS benefit."

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Senator Tañada. On the same page, line 24, insert the following words: "OR FOR THE BENEFIT OF MEMBERS OF HIS FAMILY, OR HIS RELATIVES, BUSINESS ASSOCIATES, SUBORDINATES OR OTHER PERSONS comma (,)." So that said phrase will read as follows: "for HIS benefit OR FOR THE BENEFIT OF HIS FAMILY, OR HIS RELATIVES, BUSINESS ASSOCIATES, SUBORDINATES OR OTHER PERSONS comma (,)."

The President. Is there any objection?

Senator Maceda is recognized.

Senator Maceda. Mr. President, since there is no definition of "family" or "relative" in Section 1, I was wondering whether we can include in this provision the concept of "relatives by affinity or in-laws."

Senator Tañada. Yes, Mr. President.

Senator Maceda. Subject to style.

The President. Is there any objection? [*Silence*] The Chair hears none; the amendment is approved.

Next amendment.

Senator Tañada. On line 24, page 2, delete the words "systematic or methodical", so that the phrase will just read: "through a scheme, or conspiracy".

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

Senator Tañada. On the same page 2, lines 28 and 29, delete the words: "violations of the Anti-Graft and Corrupt Practices Act (R.A. 3019, as amended)" and insert the words "AND GRAFT OR CORRUPT PRACTICES. And then, after the word "offense", insert the word "SHALL". So that, the phrase would read as follows: "illegal exactions, GRAFT OR CORRUPT PRACTICES and like offenses SHALL amass, ..."

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

Senator Tañada. On page 3, delete lines 1, 2, 3, and 4, Mr. President. So that the continuation of the sentence shall start with the word "shall". And on line 5, delete also the words "shall be found guilty of the crime of plunder and", so that the first word on line 3 will be "SHALL". And we can read the entire section, Mr. President, after the other amendments on the same section.

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

Senator Tañada. On the same page 3, line 7, after the word "from", insert the words "HOLDING ANY", then delete the word "Furthermore" and write in capital the first letter of the word "the".

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

Senator Tañada. On the same page 3, lines 8 and 9, delete the words "so acquired, accumulated or amassed by them or escheated".

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

Senator Tañada. On the same page 3, lines 10 and 11, delete the words "in an amount equivalent to double of the assets illegally accumulated." There will be an individual amendment on this point later on, Mr. President.

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

Senator Tañada. So that Section 2 will now read as follows:

"Any public OFFICIAL who, by himself or in connivance with members of his family, relatives, business associates, subordinates or other PERSONS, for HIS benefit OR FOR THE

BENEFIT OF MEMBERS OF HIS FAMILY, HIS RELATIVES, BUSINESS ASSOCIATES, SUBORDINATES OR OTHER PERSONS, through a scheme or conspiracy consummated by a series of overt or criminal acts, such as bribery, extortion, malversation of public funds, swindling, falsification of public documents, coercion, theft, frauds and illegal exactions, graft OR corrupt practices and like offenses, SHALL amass, accumulate or acquire ill-gotten wealth IN THE AGGREGATE AMOUNT OR TOTAL VALUE OF ONE HUNDRED MILLION PESOS (P100,000,000.00) OR MORE shall be guilty of the OFFENSE of plunder and shall be punished by life imprisonment and perpetual disqualification from HOLDING ANY public office. ANY PERSON WHO SCHEMED OR CONSPIRED WITH THE SAID PUBLIC OFFICIAL IN THE COMMISSION OF PLUNDER OR KNOWINGLY BENEFITED FROM THE PROCEEDS OF THE SAID OFFENSE SHALL LIKEWISE BE PUNISHED BY LIFE IMPRISONMENT. The court shall declare any and all ill-gotten wealth forfeited in favor of the State."

So that would be Section 2, Mr. President, subject to refinement and style.

The President. Is there any objection to that? [Silence]

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. Mr. President, may I just be enlightened as a coauthor on the deletion of the phrase: "forfeited in favor of the State in an amount equivalent to double the value of the assets illegally accumulated." It seems this has been deleted, Mr. President.

Senator Tañada. That is correct, Mr. President, because it was the thinking that if that would be retained, it could just prolong the trial of the case and make more difficult the conviction of the alleged grafter or the accused.

But there is an individual amendment that is going to be proposed, Mr. President, which would include any interests or earnings or income that this ill-gotten wealth would earn. In the period of individual amendments that will be proposed, Mr. President.

We believe that the individual amendment that will be proposed will cover the concern of Senator Romulo, as it will provide that the fruits and earnings or income of this ill-gotten wealth would also be forfeited in favor of the government.

The President. Anyway, why do we not take that up in the period of individual amendments?

Senator Romulo. Yes, Mr. President.

The other question that I wanted to pose is: Did I hear it right that the amount of P100 million was also deleted?

Senator Tañada. Right now, the amount still stands at P100 million but Senator Maceda, during the period of interpellations, had brought out the possibility of amending that to make it a lower amount.

Senator Romulo. That is correct, Mr. President.

The third item on which I wanted some clarification is: What if — I understand that this is a scheme or conspiracy and a series of overt act — by one act, any one of this act we can prove, and of course, that is not a series, are we precluded then from...?

Senator Tañada. No, Mr. President. In that eventuality, the person, public official or private citizen, could be prosecuted under the existing Anti-Graft and Corrupt Practices Act or other special laws like the ill-gotten wealth law.

Senator Romulo. But not under this proposed bill.

Senator Tañada. Not under this proposed bill.

Senator Romulo. The Gentleman feels that that is amply covered in the existing Anti-Graft law.

Senator Tañada. Yes, Mr. President.

Senator Romulo. And because of the rule of evidence here, would it not be also proper to include an act which one can prove, although it is not a series?

Senator Tañada. The bill now being discussed is intentionally supposed to cover a series of acts which indicates a conspiracy or a scheme to amass this ill-gotten wealth.

Senator Romulo. I would like to thank the Gentleman for the moment.

Senator Tañada. Thank you.

Senator Paterno. Mr. President.

The President. Senator Paterno is recognized.

Senator Paterno. I just would like to inquire whether the penalty of life imprisonment and perpetual disqualification from public office is a set penalty. In other words, is that the maximum penalty that is imposed?

Senator Tañada. Yes, Mr. President.

Senator Paterno. There may be penalties less than that imposed for the offense of plunder, under this wording?

Senator Tañada. If what is proven in court is that the amount involved is P100 million at least, then that would be the penalty imposed — life imprisonment and then, permanent disqualification from holding public office.

Senator Paterno. So, in effect, if the crime of plunder is proven, then the penalty is set at life imprisonment and perpetual disqualification?

Senator Tañada. Yes, Mr. President.

Senator Paterno. I am just trying to clarify to set the stage for an amendment during the period of individual amendment, Mr. President.

Senator Tañada. The Senate President Pro Tempore has mentioned a situation where the accused probably will, say, plead guilty, then, perhaps, because of that plea of guilty, the penalty would be reduced in accordance with the Revised Penal Code.

Senator Paterno. Just to disclose my intentions, Mr. President: that is for a minimum penalty of life imprisonment but it would be declared a heinous crime subject to the death penalty. That was my intention.

Senator Tañada. Yes, Mr. President.

The President. All right. Next amendment.

Senator Tañada. On page 3, line 29, between the words "and" and "benefits", insert the word "OTHER".

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

Senator Tañada. On page 4, line 1, delete the word "crime" and insert the word "OFFENSE".

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

Senator Tañada. Then in the title of the bill, Mr. President, delete the word "CRIME" and insert the word "OFFENSE" so that the title would read as follows:

AN ACT DEFINING AND PENALIZING THE OFFENSE OF PLUNDER.

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

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

Senator Pimentel. Are we ready for the individual amendments, Mr. President?

Senator Tañada. Just one last amendment, Mr. President. On line 3 of page 1, we propose to change the word "official" to "OFFICER", so that it will read: "Public OFFICER", instead of "Public official". And we offer this as an omnibus amendment.

The President. Let us make it an omnibus amendment. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Tañada. That is all for the Committee amendments, Mr. President.

The President. All right. Let us proceed to the individual amendments.

On page 1.

Senator Pimentel. Mr. President.

The President. Senator Pimentel is recognized.

PIMENTEL AMENDMENT

Senator Pimentel. The amendment that I would like to introduce really is on the title, on the word "OFFENSE" which is found in many places of the bill also. I would like to suggest that we go back to the word "crime". The reason is that under Criminal Law, Mr. President, an offense is something that is committed by *dolo* or by *culpa* and there are definite elements that constitute an offense as defined under the Revised Penal Code. Normally, when a violation of the law is defined by special law, then we call it a crime, instead of an offense. I am just wondering, maybe, we can put that standard difference.

Senator Tañada. We were thinking, Mr. President, that since this would be a special law, the more appropriate term to use would be "offense" instead of "crime." But if the intention really is to send the message that plunder is looked upon as something more serious than an offense, then I would have no objection to using the word "crime".

The President. In other words, it is accepted.

Senator Tañada. Yes, 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. On page 3, Mr. President, if there is no anterior amendment.

The President. Is there any amendment on page 1? [*Silence*] On page 2?

Senator Maceda. Mr. President.

The President. Senator Maceda is recognized, then Senator Ziga.

MACEDA AMENDMENT

Senator Maceda. I do not know, Mr. President, if I am using the right copy, but in subparagraph 4 of page 2, whatever the correct line is, "By obtaining, receiving, or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation..." May I know what line is this paragraph in the Gentleman's bill?

Senator Tañada. The original bill, Mr. President, that would be lines 8 to 11. That is the bill which has not yet incorporated the Committee amendments.

Senator Maceda. Is that what we are using?

Senator Tañada. Yes, Mr. President.

Senator Maceda. All right. After the word "participation" on line 10, add the following words: "INCLUDING THE PROMISE OF FUTURE EMPLOYMENT".

Senator Tañada. Accepted, Mr. President.

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

ZIGA AMENDMENTS

Senator Ziga. Mr. President.

The President. Senator Ziga is recognized.

Senator Ziga. Thank you, Mr. President.

I would like to propose an amendment on page 2, line 25. Delete the word "consummated", and insert the word "COMMITTED".

Senator Tañada. Accepted, Mr. President.

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

Senator Ziga. Also, Mr. President, on the same page, line 28, after the word "exactions", I propose that we insert the words as defined in the Revised Penal Code.

The President. What is the pleasure of the Sponsor?

Senator Tañada. Accepted, Mr. President.

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

Senator Ziga. Mr. President, also on page 2, line 29, after the word "Practices", I propose that we insert the words as defined in Republic Act No. 3019.

The President. What is the pleasure of the Sponsor?

Senator Tañada. Accepted, Mr. President.

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

Senator Maceda. Mr. President.

Senator Maceda. In line with our interpellations that sometimes "one" or maybe even "two" acts may already result in such a big amount, on line 25, would the Sponsor consider deleting the words "a series of overt or". To read, therefore: "or conspiracy COMMITTED by criminal acts such as". Remove the idea of necessitating "a series". Anyway, the criminal acts are in the plural.

Senator Tañada. That would mean a combination of two or more of the acts mentioned in this.

The President. Probably, two or more would be...

Senator Maceda. Yes, because "a series" implies several or many; two or more.

Senator Tañada. Accepted, Mr. President.

The President. All right. Is there any objection?

Senator Romulo. Mr. President.

The President. Senator Romulo is recognized.

Senator Romulo. Mr. President, I was going to suggest prior to Senator Maceda that on line 24: "SHALL THROUGH ONE overt or criminal act OR..." I was just thinking of one which is really not "a series".

The President. If there is only one, then he has to be prosecuted under the particular crime. But when we say "acts of plunder" there should be, at least, two or more.

Senator Romulo. In other words, that is already covered by other acts.

Senator Tañada. If only one act, then it would be covered by existing laws, Mr. President.

The President. Is there any more amendments?

Senator Guingona. Mr. President.

The President. Senator Guingona is recognized.

Senator Guingona. Before the Committee amendments, Mr. President, what was line 11, page 3, after the word "accumulated period (.)" "PROVIDED, HOWEVER, THAT ACQUITTAL IN THE CRIME OF PLUNDER SHALL NOT BE A BAR TO THE PROSECUTION OF OTHER OFFENSES NOT NECESSARILY INCLUDED IN THE CRIME OF PLUNDER."

The President. All right.

Senator Tañada. How is that again, Mr. President?

Senator Guingona. "PROVIDED, HOWEVER, THAT ACQUITTAL IN THE CRIME OF PLUNDER SHALL NOT BE A BAR TO THE PROSECUTION OF OTHER OFFENSES NOT NECESSARILY INCLUDED IN THE CRIME OF PLUNDER."

This does not violate the double jeopardy principle, Mr. President. It gives justice because if he has committed several crimes, and since the evidence is not forthcoming for some, it would be unjust for him to be acquitted in plunder and also be acquitted in the other crimes that are not necessarily included.

Senator Tañada. I think that was the point raised by Senator Gonzales during the period of interpellations, and this would raise the question of double jeopardy.

Senator Guingona. Yes, but double jeopardy has...

Senator Tañada. If the acts are not necessarily included in the crime of plunder of which he is charged, then, perhaps, the question of double jeopardy would not arise. But, if in the Information accusing him of the crime of plunder, those other acts are included, then that would be a different story, Mr. President.

Senator Guingona. That is to be decided on a case-to-case basis. But, if it is not necessarily included in the charge of plunder, then he may still be open to prosecution for the other crimes.

Senator Tañada. By saying "NOT NECESSARILY INCLUDED", Mr. President, does the Gentleman mean to say not stated or not mentioned in the Information?

Senator Guingona. No, it may be mentioned, but not as that specific crime.

The President. Probably "NOT INCLUDED IN THE INFORMATION FOR PLUNDER".

Senator Guingona. It need not be spelled out, Mr. President.

Senator Tañada. My worry is, if it is included and is expressly mentioned in the Information, then the question of double jeopardy would arise.

Senator Guingona. That is why we are stating that the determination, Mr. President, is that it is not necessarily included.

Senator Tañada. So, how would it read again, Mr. President?

Senator Guingona. "PROVIDED, HOWEVER, THAT ACQUITTAL IN THE CRIME OF PLUNDER SHALL NOT BE A BAR TO THE PROSECUTION OF OTHER OFFENSES NOT NECESSARILY INCLUDED IN SAID CRIME OF PLUNDER."

The President. Probably, "NOT NECESSARILY INCLUDED IN THE INFORMATION", because, if in the Information, bribery and malversation of public funds are included, the acquittal on that will not bar prosecution for other crimes not included in the Information.

Senator Guingona. Yes, Mr. President, but the allegations in the Information may not necessarily spell out specifically the crime of malversation or unjust enrichment or anti-graft. It may just be general, which would cover either one. But, if that was not necessarily included, it was not the means to attain the plunder, then it is not double jeopardy.

Senator Tañada. Let us say, Mr. President, that in the Information charging one with plunder, the crime of falsification

of public documents is not alleged in the Information, and the person is acquitted of the charge of plunder, then, he can be prosecuted for falsification of public documents.

Senator Guingona. Yes, if the evidence shows that there is falsification.

The President. Let us hear from Senator Enrile.

Senator Enrile. Mr. President, I think, all of the crimes that are included in Section 2 go into the definition of the crime of plunder. And so, when we make an allegation that he committed the crime of plunder, all of these elements are deemed included in the allegation.

So, these are the facts that must be established by the evidence. And, if we acquit him of the crime of plunder, I doubt whether we can prosecute him again for any of the crimes mentioned in Section 2. Because, these constitute the elements of the crime of plunder. We cannot convict a person for two different crimes based on the same facts.

Senator Guingona. Mr. President, under Section 2, there is required a series or, as amended, a conspiracy of overt or criminal acts.

The President. Two or more.

Senator Guingona. Yes, Mr. President. Bribery which may not necessarily be included in extortion; extortion which may not necessarily be included in malversation of public funds; swindling which may or may not be included in malversation; falsification of public documents which may or may not be included in, but as a matter of fact, be even contrary or inconsistent with extortion; coercion which may not be related at all to bribery; and then there is theft, frauds, illegal exactions, violations of the Anti-Graft and Corrupt Practices Act. It seems, Mr. President, that it is not fitting that we complex these into the crime of plunder. And, because of lack of evidence for conspiracy he is acquitted of plunder, and he gets away under the theory of double jeopardy for the other crimes mentioned.

Senator Enrile. But, he will be necessarily included in the information based on the allegations of facts constituting plunder. And, if we allege conspiracy and we have not proven conspiracy and he gets acquitted, I think, I entertain seriously that double jeopardy shall have set in at that point, especially if in the case of the other participants to the crime, there are allegations tending to establish the elements of the crime for which we are trying to charge him again.

SUSPENSION OF THE SESSION

The President. Let us suspend the session for a minute, if there is no objection. [*There was none.*]

It was 7:33 p.m.

RESUMPTION OF THE SESSION

At 7:36 p.m., the session was resumed.

The President. The session is resumed.

Senator Guingona. Mr. President, after the recess, we would just like to spread on the record: one, that this is not a complex crime; second, that the elements of double jeopardy may or may not be present depending on the circumstances of each case. We intended that amendment to stress the fact that it does not necessarily follow that just because an accused is acquitted for the crime of plunder, that he can no longer be prosecuted for bribery, coercion, et cetera, mentioned in Section 2. It would depend on each particular case.

Therefore, I would just like to spread that on the record, and withdraw the amendment.

Senator Tañada. Thank you, Mr. President.

The President. The next amendment.

Senator Ziga. Mr. President.

The President. Senator Ziga is recognized.

Senator Ziga. Mr. President, if I may go back to page 2.

Line 25, Mr. President, I would propose to delete the words: "a series of overt or criminal acts..."

The President. It is already covered by the Maceda Amendment — "two or more".

Senator Ziga. Yes, Mr. President, that has been covered. I am sorry.

ZIGA AMENDMENT

I therefore would like to proceed to line 29, page 2, after the words: "as defined in Republic Act No. 3019", delete the words "and like offenses".

Senator Tañada. That is accepted, Mr. President.

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

Senator Paterno is recognized.

Senator Paterno. Page 3, Mr. President, line 6.

The President. Are we on page 3 now?

Senator Paterno. Page 3, Mr. President, line 6, before the words: "life imprisonment", the phrase "a minimum penalty of".

The President. How will it read?

Senator Paterno. "...shall be punished with a minimum penalty of life imprisonment and perpetual disqualification from public office."

That would be followed, Mr. President, by a sentence which would say: "THE OFFENSE OF PLUNDER IS HEREBY DECLARED A HEINOUS CRIME SUBJECT TO THE DEATH PENALTY."

The President. What is the pleasure of the Sponsor?

Senator Tañada. I was talking with Senator Romulo, Mr. President, I did not get completely the....

The President. Shall we restate the amendment?

Senator Paterno. Maybe, may I state it as one amendment, Mr. President, so that it is easier to grasp?

On page 3, line 6, before the words "life imprisonment" the phrase: "A MINIMUM PENALTY OF". And then after "office and the period (.)" on the succeeding line, the sentence: "THE OFFENSE OF PLUNDER IS HEREBY DECLARED A HEINOUS CRIME comma (,) SUBJECT TO THE DEATH PENALTY period (.)"

Senator Tañada. Mr. President, I am sorry, I cannot accept the amendment being proposed by Senator Paterno. I don't believe it will be a real deterrent. This is, of course, my personal opinion. Moreover, I am against restoring the death penalty into our statute books, as a matter of principle. I believe the penalty of life imprisonment and permanent disqualification from holding public office would be sufficient penalty for anyone who is found guilty of the crime of plunder.

Senator Paterno. I respect the beliefs of Senator Tañada, Mr. President. But when we are talking of people who commit the crime of plunder, we are talking of people who will not be dissuaded by anything other than capital punishment. And I am afraid I will have to insist on a vote on this particular amendment, Mr. President.

Senator Enrile. Mr. President.

The President. Senator Enrile is recognized.

Senator Enrile. Mr. President, apart from my own abhorrence in inflicting the death penalty against a fellow human being, I equally entertain the great doubt whether that is really a sound policy to adopt at this time, because P100 million today maybe something of value. But considering the present trend of the economy, maybe, next year P100 million might be just the equivalent of P1000 today because of inflation. So we will be killing people for plundering the economy so-called. But in fact, it is the product of economic difficulties. So, Mr. President, P100 million today maybe of value, but if we are not careful and we become like Germany of 1923 up to 1927, we might be carting pesos to the market.

Senator Paterno. Mr. President, we can handle that by saying: "OR TOTAL VALUE OF P100 MILLION IN 1989 VALUE."

SUSPENSION OF THE SESSION

The President. Let us suspend the session for one minute, if there is no objection. *[There was none.]*

It was 7:43 p.m.

RESUMPTION OF THE SESSION

At 7:47 p.m., the session was resumed.

The President. The session is resumed.

Senator Tañada. Mr. President, Senator Romulo has a proposed amendment.

Mr. President, but first there should be a manifestation by Senator Paterno.

Senator Paterno. Mr. President, I understand that there is a motion to reduce the amount of the offense of plunder. So, I would like to defer my proposed amendment until I shall have listened to what that new definition would be.

The President. Senator Romulo is recognized.

Senator Romulo. Mr. President, Senator Maceda and myself would like to propose that in lieu of, less than P100 million that we instead change that to, not less than "P50 MILLION".

The President. That is on the first two lines of page 3. Is there any objection?

Senator Tañada. We accept it, Mr. President.

The President. There being no objection, the amendment is approved. In view of which Senator Paterno will make a manifestation.

Senator Paterno. Mr. President, out of respect for the sentiments of the two authors, namely, the Senate President, and Senator Tañada, I reluctantly defer my suggestion for defining a heinous crime until some other date.

Thank you, Mr. President.

The President. Thank you.

Senator Saguisag is recognized, then Senator Ziga.

Senator Saguisag. Ito po ba ay walang mga degree, degree or gradations, itong parusang ito?

Senator Tañada. We would be governed by the existing provisions of the Revised Penal Code, Criminal Procedure and other special laws.

Senator Saguisag. I really doubt whether the Revised Penal Code could apply to a special law. The way it is worded now, if I were the plunderer, let us say, I obtain P500 or P100 million, if in the course of my plundering I gave my driver P50 cigarette money. He knew that that was part of what I have looted, iyun po ba ay ipakukulung natin ng kadena perpetuwa?

Senator Tañada. One can be a principal by direct participation, by inducement, or an accomplice or an accessory before or after the fact.

SAGUISAG AMENDMENT

Senator Saguisag. As I said, if it is not mentioned in the law, I really doubt whether we can incorporate by reference the provisions of the penal code. It has a different regime altogether. In other words, maybe I was thinking that line 7, page 3, from public office, we should add some such language as "BUT THE COURT MAY IMPOSE LOWER PENALTIES WHEN THERE ARE MITIGATING OR ATTENUATING CIRCUMSTANCES." Subject to style. But otherwise, baka wala pang discretion dito maski napagaan or napaliit ang partisipasyon. Medyo po Draconian itong...

Senator Tañada. We accept, Mr. President.

The President. Subject to refinement, is there no objection? *[Silence]* Hearing none, the amendment is approved.

Senator Enrile is recognized.

Senator Enrile. I am a little bothered by this term "knowingly benefited". Mr. President, suppose the teenage daughter of the plunderer goes to school in a chauffeured limousine owned by the plunderer and realized that the parent plunderer was plundering the country, would she equally suffer the penalty of life imprisonment?

Senator Tañada. I suppose, Mr. President, the Court will take into consideration whatever other circumstances may be present and the evidence that will be presented before the court.

Senator Enrile. But as it is worded, Mr. President, the Court might have no discretion unless we require them to exercise discretion. How about a prelate of the church, who receives a contribution from the plunderer knowing that the plunderer is a plunderer. Would the prelate of the church equally suffer the penalty of life imprisonment?

Senator Tañada. He could be found guilty as an accessory, Mr. President, after the fact and then the corresponding penalty could be imposed depending on the evidence submitted to the court.

Senator Enrile. The word here, Mr. President, "such public officer or person who conspired or knowingly benefited". One does not have to conspire or rescheme. The only element needed is that he "knowingly benefited". A candidate for the Senate, for instance, who received a political contribution from a plunderer, knowing that the contributor is a plunderer and therefore, he knowingly benefited from the plunder, would he also suffer the penalty, Mr. President, for life imprisonment?

Senator Tañada. In the committee amendments, Mr. President, we have deleted these lines 1 to 4 and part of line 5, on page 3. But, in a way, Mr. President, it is good that the Gentleman is bringing out these questions, I believe that under the examples he has given, the Court will have to

Senator Enrile. How about the wife, Mr. President, he may not agree with the plunderer to plunder the country but because she is a dutiful wife or a faithful husband, she has to keep her or his vow of fidelity to the spouse. And, of course, she enjoys the benefits out of the plunder. Would the Gentleman now impute to her or to him the crime of plunder simply because she or he knowingly benefited out of the fruits of the plunder and, therefore, she must suffer or he must suffer the penalty of life imprisonment?

The President. That was stricken out already in the Committee amendment.

Senator Tañada. Yes, Mr. President. Lines 1 to 4 and part of line 5 were stricken out in the Committee amendment. But, as

I said, the examples of the Minority Floor Leader are still worth spreading in the *Record*. And, I believe that in those examples, the Court will have just to take into consideration all the other circumstances prevailing in the case and the evidence that will be submitted.

The President. In any event, "knowingly benefited" has already been stricken off.

Senator Tañada. Yes, Mr. President.

The President. Senator Guingona is recognized, and then Senator Ziga.

Senator Guingona. May I just be clarified Mr. President. In this Section 4, a pattern of the criminal acts is all that is required. Would this pattern of criminal acts be also sufficient to establish a prima facie case?

Senator Tañada. Mr. President, under Section 4, it would not only be sufficient to establish a prima facie case. It would be sufficient to establish guilt as long as the evidence necessary to establish guilt beyond reasonable doubt is presented.

Senator Guingona. So, may I therefore move for the amendment, Mr. President, changing on lines 22 to line 26 the words "from office" and instead say "WHENEVER A CRIMINAL ACTION IS COMMENCED AGAINST ANY PUBLIC OFFICER UNDER THIS ACT HE SHALL BE SUSPENDED from office".

Senator Tañada. That is on what line, Mr. President?

Senator Guingona. From line 22 to line 26, the words, "from office".

The President. The Chair believes that under the rules already laid down by the Sandiganbayan in a number of cases, the moment there is an information filed, one has to be suspended.

Senator Guingona. No, Mr. President. Under my amendment, it is from the commencement of a criminal action. That means that we do not have to wait for the information as long as there is a complaint....

The President. If the complaint has no basis at all and it is not with the Sandiganbayan yet, it is with the Tanodbayan, that may not be enough. But, under the jurisprudence laid down by the Sandiganbayan, the moment there is an information filed with the Sandiganbayan, that means there is already probable cause. Suspension will ensue automatically.

Senator Guingona. The rationale behind this, Mr. President, is that the public official here who is capable of plunder is

powerful and, therefore, even upon the commencement of a criminal action, he should be suspended. And if there is no information filed subsequently, then he is reinstated.

The President. What is the pleasure of the Sponsor?

Senator Tañada. Mr. President, I would prefer to retain the present wording of Section 5, that is, only when the information is filed can the public officer or employee be suspended, because this could be a source of a lot of harassments and injustice.

Senator Guingona. Then, I will not insist, Mr. President.

The President. Senator Enrile wants to say something.

Senator Enrile. No. I am going to touch on a different matter, Mr. President, and that is in connection with my previous question. I discovered that in the amended version of the bill, the phrase "... or knowingly benefited from the proceeds of said offense ..." is still carried as a committee amendment. Therefore, I think, the questions that I posited are still valid questions, apart from the fact that in the definition of the crime, it says "Any public officer who, by himself, or in connivance with members of his family ...".

Suppose a 17 year-old daughter or son was used by the father to become the titleholder of shares of stock in San Miguel or in PLDT, and this is a product of a plunder, would this child be imprisoned for life simply because of the act of the father? Because, there was a connivance with the father and he might have knowingly benefited out of the act of plunder. How about a maid who becomes a titleholder of a piece of land serving as a dummy?

Senator Tañada. Yes, Mr. President. I believe, the court will just have to consider all the circumstances and the evidence presented to it.

Senator Enrile. But, if all the elements of the crime, Mr. President, are proven by the astute prosecuting attorney, especially when conspiracy is proven that the act of one is the act of all, I do not think the court will have any discretion given the present manner by which this law has been crafted. We will be sending people to an imprisonment for life without considering the degree of their participation or their malice in committing the crime.

Senator Tañada. Mr. President, I would like to think that the court would take into consideration the evidence and circumstances prevailing with respect to each one of the accused.

Senator Enrile. But, Mr. President, the penalty is indivisible. You cannot divide the penalty of life imprisonment into degrees. It is a one, single, indivisible penalty, and the wording of the law

is, "Any person who schemed or conspired with the said public official in the commission of plunder or knowingly benefited from the proceeds of said offense, shall likewise be punished by life imprisonment." The judge will have no discretion. It is a very simple matter of proving the facts for the fiscal to do. Just reintroduce the evidence. The benefits he or she enjoyed resulted from plunder. So, all the elements of the crime, as far as that person is concerned, had been proven, although the amount of the benefit is miniscule compared to the total amount of plunder.

Senator Tañada. If it will help, Mr. President, perhaps under those circumstances, under those examples the Gentleman gave, we can add a phrase here which would say: "AND SUCH OTHER PENALTY AS MAY BE DETERMINED BY THE COURT."

Senator Enrile. My problem here, Mr. President, is the use of the phrase "or knowingly benefited", because it might be that the person knew that the benefactor is a plunderer but he belongs to a poor family, he wants to go to school. The plunderer said: "Well, I will send you to school. I will give a scholarship." And he enjoyed this scholarship.

Senator Tañada. In such an example, Mr. President, if we would add that phrase, the Court would have the discretion of whether to impose life imprisonment or such other penalty.

Senator Enrile. But what will be the penalty, Mr. President? There is no other penalty provided in this statute other than life imprisonment. We will have to provide a penalty of some kind.

Anyway, I am raising this question, Mr. President, because it might pose a problem for many people in the future. We do not know.

Senator Tañada. Yes, Mr. President, anyway, it is already in the *Record* that in such a situation the court should take into consideration all the circumstances and the evidence that may be presented as far as each of the accused is concerned.

Senator Ziga. Mr. President.

The President. Senator Ziga is recognized.

ZIGA AMENDMENTS

Senator Ziga. Thank you, Mr. President. We would like to propose on page 3, line 8, after the word "wealth", insert the words "AND THEIR INTERESTS AND OTHER INCOMES AND ASSETS INCLUDING THE PROPERTIES AND SHARES OF STOCKS DERIVED FROM THE DEPOSIT OR INVESTMENT THEREOF."

Senator Tañada. It is accepted, Mr. President.

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

Senator Ziga. Also, Mr. President, on line 15, the first paragraph of Section 4, I would like to propose to insert a paragraph on line 15, after the words: "Rule of Evidence", the following:

"THE BURDEN OF PROOF AS TO THE CRIME OF PLUNDER LIES WITH THE PROSECUTION. ONCE THE PROSECUTION PROVES THAT THE WEALTH ACCUMULATED BY THE ACCUSED IS MANIFESTLY OUT OF PROPORTION TO HIS SALARY AND OTHER LAWFUL INCOME, IT SHALL DEVOLVE UPON THE ACCUSED TO SHOW THAT SUCH WEALTH WAS ACQUIRED THROUGH LAWFUL MEANS."

The President. What is the pleasure of the Sponsor?

Senator Tañada. I accept, Mr. President.

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

Is there any further amendment? [Silence]

If there is none, the Majority Floor Leader is recognized.

Senator Pimentel. Mr. President.

Senator Romulo. Mr. President.

The President. Senator Pimentel is recognized, and then Senator Romulo.

PIMENTEL AMENDMENT

Senator Pimentel. Mr. President, in between "perpetual" and "disqualification", it should be "perpetual ABSOLUTE disqualification".

Senator Tañada. It is accepted, Mr. President.

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

Senator Romulo is recognized.

Senator Romulo. Mr. President, in another subject matter, may I manifest that on Senate Bill No. 835....

The President. Teka muna. Let us approve this first.

The Majority Floor Leader is recognized.

APPROVAL OF SENATE BILL NO. 733
ON SECOND READING, AS AMENDED

Senator Mercado. May I reiterate my motion to close the period of amendments and approve on Second Reading Senate Bill No. 733.

The President. We shall now vote on the bill on Second Reading. As many as are in favor of the bill, will please say *Aye*. [Several Senators: *Aye*] As many as are against will please say *Nay*. [Silence] Senate Bill No. 733 is approved on Second Reading.

Now, Senator Romulo is recognized.

MANIFESTATION OF SENATOR ROMULO
(Senators Ziga, Tamano and Romulo
as Authors of Senate Bill No. 835)

Senator Romulo. Yes, Mr. President. On Senate Bill No. 835, entitled

AN ACT GRANTING DISCOUNT PRIVILEGES TO
SENIOR CITIZENS, AND FOR OTHER PUR-
POSES,

the Authors should read: Senators Ziga, Tamano and Romulo.

The President. All right. Let that be made on matter of record.

ADDITIONAL REFERENCE OF BUSINESS

Senator Romulo. Mr. President, we have Additional Reference of Business. May I ask the Secretary to read the same.

The President. The Secretary may read the Additional Reference of Business.

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

June 1, 1989

Mr. President:

I have been directed to inform the Senate that the House of Representatives approved on May 31, 1989, the Conference Committee Report on the disagreeing provisions of House Concurrent Resolution No. 17, entitled

TUESDAY, JULY 25, 1989

OPENING OF THE SESSION

At 4:07 p.m., the Honorable Jovito R. Salonga, President of the Senate, called the Senate to order.

The President. Binubuksan ang pulong ng Senado.

Pangungunahan tayo sa panalangin ni Senator Herrera.

Everybody remained standing for the opening prayer.

PRAYER

Senator Herrera. Almighty God, our Father, on this Third Regular Session of Congress, teach us to speak simply and directly, that we may be understood; teach us to listen sincerely that we may understand; and, in the awareness that follows, teach us to act wisely and decisively, that we may fulfill the hopes our people hold in us.

Amen.



The following is the full text of the written explanation of vote of Senator Angara:

Mr. President, by lowering the age of majority from twenty-one to eighteen years, we in the Senate are merely validating our trust in the capacity of our youth to think in their own terms and to make responsible decisions concerning their affairs.

When the voting age was lowered to 18 years old we, in effect, urged the youth to be part of the decision-making process in Government. Even now, there are legislative proposals for the reduction of the minimum age of elective local officials in favor of our youth. We would like to think that having given our eighteen year olds political responsibility, it is high time that the age of emancipation reflect the trust which the youth have responsibly borne.

For these reasons, I vote Yes to the Senate Bill No. 181.

BILL ON THIRD READING
S. No. 733 - Defining And Penalizing Plunder

Senator Tamano. Mr. President, I move that we take up on Third Reading Senate Bill No. 733. Copies of the bill have been distributed to all the Members of the Senate on June 8, 1989.

The President. Voting on Third Reading on Senate Bill No. 733 is now in order. The Secretary will please read the title of the bill only, if there is no objection. (There was none.)

The Secretary. Senate Bill No. 733, entitled:

AN ACT DEFINING AND PENALIZING THE CRIME OF
PLUNDER

The President. The Senate will now proceed to vote on the bill. The Secretary will please call the roll.

The Secretary called the roll and the result of the voting was as follows:

YES - 19

Senator Alvarez	Senator Maceda
Senator Angara*	Senator Paterno
Senator Aquino	Senator Pimentel
Senator Enrile	Senator Rasul
Senator Estrada	Senator Salonga
Senator Gonzales	Senator Shahani
Senator Guingona	Senator Tamano
Senator Herrera	Senator Tanada
Senator Laurel	Senator Ziga
Senator Lina	

*With explanation of vote.

NO - None

ABSTENTION - None

RESULT OF VOTING

The President. With 19 affirmative votes, no negative vote, no abstentions, Senate Bill No. 733 is approved on Third Reading.

EXPLANATION OF VOTE OF SENATOR ANGARA

Senator Angara. I vote Yes, Mr. President, and as in the two previous bills, may I ask that my written explanation be inserted into the records.

The following is the full text of the written explanation of vote of Senator Angara.

Mr. President, many sectors in our society continue to decry, not only the state of government service but more so, the manner by which so-called public servants make a career in graft and corruption at the expense of the public.

It is disturbing to note that due to the gravity of the situation, legislators have been prompted to define a new crime. But it would have been a graver malfeasance for the people in the Senate to have pretended that graft and corruption never existed, and worse still, to have condoned the practice through inaction.

Some people seem to believe that a criminal mind is never deterred by the punishment that ultimate exposure brings. But I believe that the passing of S. No. 733 goes beyond our primeval thirst to avenge a wrong. We are reflecting in this bill, our collective stand against the unconscionable.

For these reasons, Mr. President, I give a Yes vote to S. No. 733.

ADJOURNMENT OF THE SESSION

Senator Tamano. Mr. President, I move for the adjournment of the session until 4:00 o'clock tomorrow afternoon, Wednesday, July 26, 1989.

The President. Itinitindig ang pulong hanggang ika-4:00 ng hapon bukas.

It was 7:07 p.m.

RECORD OF THE SENATE

MONDAY, MAY 27, 1991

OPENING OF THE SESSION

At 3:23 p.m., the Honorable Jovito R. Salonga, President of the Senate, called the session to order.

NATIONAL ANTHEM

The President. Binubuksan ang pulong ng Senado.

Aawitin ng ating Senate Choir ang "Pambansang Awit" at pagkatapos ay pangungunahan tayo sa panalangin ni Senador Aquilino Q. Pimentel, Jr.

Everybody rose for the singing of the Philippine National Anthem and for the opening prayer.

PRAYER

Senator Pimentel.

As we enter the penultimate week of the closing of the 4th session of this Congress, we give thanks to You, O Lord, our God for the manifold blessings You have showered upon our country and people.

Despite the devastating typhoons that have lashed at our shores and the destructive earthquakes that have shaken the land, the Government still stands, the center holds and the people patiently toil to start their lives anew.

Despite the incendiary coups d'etat that have been attempted and the internecine insurgency that continues its violent course, the Government still stands, the center holds and the people cling to their hopes that democratic institutions, for all their flaws, do work.

Despite the egregious economic decisions on the issue of the foreign debt, the import liberalization policies, the oil and other price increases that have made life miserable for our people, the Government still stands, the center continues to hold and the people prayerfully await their emancipation from the bondage of poverty.

And so, with Your loving hand guiding us; Your

*Arrived after the roll call.

forgiving heart blessing us; Your eternal vision showing us the way, the truth and the life, we are optimistic that like the Israelites of old, whom You have brought out of the land of bondage; who have returned to the promised land from the Diaspora, and who have emerged from the Holocaust stronger than ever before, we will overcome, we will prevail, we will preserve this Republic as one Nation under God, peaceful and indivisible--with liberty and justice for all.

Amen.

ROLL CALL

The President. Babasahin ng Kalihim ang talaan ng mga Senador.

The Secretary.

Senator Heherson T. Alvarez	Present*
Senator Edgardo J. Angara	Present
Senator Agapito A. Aquino	Present
Senator Juan Ponce Enrile	Present
Senator Joseph Ejercito Estrada	Present
Senator Neptali A. Gonzales	Present
Senator Teofisto T. Guingona, Jr.	Present
Senator Ernesto F. Herrera	Present
Senator Sotero H. Laurel	Present
Senator Jose D. Lina, Jr.	Present*
Senator Ernesto M. Maceda	Present
Senator Orlando S. Mercado	Present
Senator John H. Osmeña	Present
Senator Vicente T. Paterno.....	Absent
Senator Aquilino Q. Pimentel, Jr.....	Present
Senator Santanina T. Rasul	Present
Senator Alberto G. Romulo	Present
Senator Rene A. V. Saguisag	Present
Senator Leticia Ramos Shahani	Absent
Senator Mamintal Abdul J. Tamano	Present
Senator Wigberto E. Tañada	Present
Senator Victor S. Ziga	Present
The President	Present

The President. Labinsiyam na Senador ang dumalo sa ating pagpupulong; mayroon tayong korum.

THE JOURNAL

Senator Guingona. Mr. President, I move that we

It was 4:35 p.m.

RESUMPTION OF THE SESSION

At 5:30 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF HOUSE BILL NO. 32939

Senator Guingona. Mr. President, I move that we suspend consideration of House Bill No. 32939.

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

MOTION OF SENATOR GUINGONA (Additional Conference Committee Members)

Senator Guingona. Mr. President, I move that the following Senators be named Senate Conferees on House Bill No. 8434, entitled:

AN ACT TO AMEND SECTION FOURTEEN OF BATAS PAMBANSA BILANG 129, OTHERWISE KNOWN AS THE JUDICIARY REORGANIZATION ACT OF 1981

namely: Senators Tanada, Gonzales, Saguisag, Angara, and Enrile.

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

SPECIAL ORDERS

Senator Guingona. Mr. President, I move that Committee Report No. 1320 on Senate Bill No. 1435, entitled:

AN ACT TO MAXIMIZE THE CONTRIBUTION OF THE ELDERLY TO NATIONBUILDING, GRANT BENEFITS AND SPECIAL PRIVILEGES, AND FOR OTHER PURPOSES,

be transferred to the Calendar for Special Orders.

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

CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 733/HOUSE BILL NO. 22752 (Crime of Plunder)

Senator Guingona. Mr. President, I move that we consider the Conference Committee Report on the disagreeing provisions of Senate Bill No. 733, entitled

AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER,

and House Bill No. 22752, entitled

AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER.

be considered.

I ask that we recognize Senator Tañada.

The President. Senator Tañada is recognized.

Senator Tañada. Thank you, Mr. President.

I have the honor to submit to this Body the Conference Committee Report of the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 733, entitled

AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER,

and House Bill No. 22752, entitled

AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER.

The Members of the Bicameral Conference Committee, Mr. President, had agreed to recommend the approval of Senate Bill No. 733 in consolidation with House Bill No. 22752 in accordance with the version attached to this Conference Committee Report.

The significant changes consist only of the increase of the aggregate amount or total value of the supposed ill-

gotten wealth from P50 million to P75 million. Originally, the Senate version was fixed at the amount of P50 million while that of the House of Representatives was fixed at P100 million. We ended up with this compromise amount of P75 million.

The other change was the deletion of the paragraph which would have placed on the accused the burden of proof to prove his innocence once a *prima facie* case has already been established against them, because of the concern that this provision could invite a constitutional challenge on the matter.

These are the more significant changes, Mr. President. So, may I now ask this Body to approve this Conference Committee Report.

The President. Senator Saguisag is recognized.

Senator Saguisag. Thank you, Mr. President.

I am a member of the Conference Committee. Unfortunately, last May 7, I also had to be present in a conflicting equally important Conference Committee meeting in relation to the Local Government Code.

I am just wondering, Mr. President, why the reversal of the presumption of innocence, which to me represented a very key provision in the bill which I coauthored, was deleted. Ano ho ang nangyari doon?

Senator Tañada. Ang nangyari po doon, iyong pagkabahala na kung mananatili iyong paragraph na iyon, lalabas na iyong burden of proof would be on the accused to prove their innocence. Dahil doon, naisip na para hindi na mag-imbata pa ng anumang kaso sa husgado hinggil sa constitutionality nitong probisyong ito, napagkaisahan na alisin na lang iyan, dahil alinsunod naman sa batas, maliwanag na maliwanag na ang burden of proof would be on the prosecution at all times, to prove the guilt of the accused.

Senator Saguisag. I am concerned, because one of the main features of Senate Bill No. 1532, which we hope will be approved by the Body any day now, also contains precisely--for lack of a better term--what we may call the Laurel-Saguisag amendment. We borrowed from the Sin-

gaporean law, precisely, the reversal of the presumption of innocence. I would have thought, that if proof of the kind that we see here is available, then maybe it can be analogized to the possession of stolen goods, of contrabands. Kaya, I am anticipating that in the Conference Committee on the new measure, maybe the same point again may be raised. I hope the Body will review our position on it.

So, I have really no objection to the Conference Committee Report. I am just trying to anticipate and prepare for the day when again that issue will arise in connection with the new measure.

Maraming salamat po.

APPROVAL OF CONFERENCE COMMITTEE
REPORT ON SENATE BILL NO. 733/
HOUSE BILL NO. 22752

The President. Is there any objection to the approval of the Conference Committee Report on the Anti-Plunder Act? [*Silence*] There being none, the motion is approved.

The following is the full text of the Conference Committee Report:

The Conference Committee, on the disagreeing provisions of Senate Bill No. 733, entitled

AN ACT DEFINING AND PENALIZING THE
CRIME OF PLUNDER,

and House Bill No. 22752, entitled

AN ACT DEFINING AND PENALIZING THE
CRIME OF PLUNDER,

has met and, after full and free conference, has agreed to recommend, as it hereby recommends, to the Senate and House of Representatives that Senate Bill No. 733, in consolidation with House Bill No. 22752, be approved in accordance with the attached version, as reconciled and approved by the Conferees.

Approved,